Steelhead fishing in the coastal streams is expected to be outstanding, as usual, during the early spring, late fall and winter. Inclement weather can be a problem during these times, but steelhead fishermen are a hardy breed.

Saltwater fishing for king and silver salmon has always been spectacular, though the last several years has seen a decline in both of these species, a reflection of the general Pacific coastwide trend. While this fishing remains at a high level compared to "outside" standards, no immediate improvement to former levels is foreseen. Availability of charter and rental boats is improving, but is still a problem. The interest in the recreational pursuit of clams, crab, abalone, sea trout and the bottom fish, all of which are found in great abundance, is increasing rapidly.

SOUTH CENTRAL ALASKA

This area concerns the upper Gulf of Alaska (Prince William Sound, Cook Inlet) and Bristol Bay drainages. Here the saltwater fishery centers about the king, silver and on occasion, the pink salmon. Increased interest is developing on the abundant bottom fish species in saltwater. Salmon fishing in freshwater is extremely popular. Rainbow, Dolly Varden, lake trout and grayling fishing in the lakes and streams is excellent. Numerous modern accommodations are available in these areas.

The Bristol Bay drainage fishing is one of the most outstanding adventures in the State. Several commercial camps are in operation and facilities range from deluxe, to comfortable primitive accommodations. King, silver, and red salmon are taken in addition to rainbow, steelhead, lake trout, and grayling.

Numerous stocked lakes are available along the Seward and Glenn Highways and along the secondary dirt roads in the area.

INTERIOR-ARCTIC

This area offers exceptionaly fine grayling fishing in addition to lake trout, northern pike, and sheefish. Though accommodations are fewer in number, first class facilities are available. Stocked lakes along the Alaska and Richardson Highways offer good rainbow fishing. The best fishing is available with short riverboat or fly-in excursions. Though the interior does not offer any saltwater fishery, excellent fresh water angling is available.

The department's public fishing access program is continuing in full force and access to desirable fishing locations are being assured to present and future anglers in Alaska. Many new fishing areas are becoming available to the highway traveler with the increased road construction program presently in effect in the State.

In conclusion, fishing prospects for 1962 are excellent and should remain so. Active fishery management programs are resolving fishing pressure problems in the heavily populated areas before they become acute, and there is no reason why this program will not continue to meet the problem.

A single license is all that is required for sport fishing. The license fees will remain the same in 1962 as they were in 1961.

The cost of a resident sport fishing license is $5, nonresident sport fishing license $10, and nonresident 10 day sport fishing permit $5.

A sport fishing license is required for the sport digging of razor clams and the recreational dipping of smelt.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, in accordance with the agreement previously entered into, I move that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 36 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Saturday, March 24, 1962, at 9 o'clock a.m.

SENATE

SATURDAY, MARCH 24, 1962

(Legislative day of Wednesday, March 14, 1962)

The Senate met at 9 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Father of all mankind, as together at the week's end we pause at this shrine of devotion our fathers built, grant us, we pray Thee, the steadying vision of Thine eternal goodness; give us, we beseech Thee, the lowly and humble heart emptied of presumptuous pride which is the only shrine where any altar pleasing to Thee can be raised.

We pray that Thou wilt so direct Thy servants who here serve the Republic that the best which is expected of them, and of which their dedicated faculties are capable, may be brought to bear without fear or favor upon the confused issues of this critical day.

Make our America, through our consecration, more and more the hope of all who suffer and the dread of all who would enslave the human spirit.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, March 23, 1962, was dispensed with.

ORDER FOR RECESS UNTIL 9 A.M. MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it take a recess until Monday morning at 9 o'clock.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

THE ALEXANDER HAMILTON NATIONAL MONUMENT — AMENDMENT TO THE CONSTITUTION DEALING WITH POLL TAXES

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] to proceed to the consideration of the joint resolution (S.J. Res. 29) providing for the establishing of the former dwelling house of Alexander Hamilton as a national monument.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of Senate Joint Resolution 29, providing for the establishment of the former dwelling house of Alexander Hamilton as a national monument.

Mr. EASTLAND. Mr. President, Thursday, a week ago, I began my first speech against the motion to make Senate Joint Resolution 29 the pending business before the Senate and to have substituted therefor the language of Senate Joint Resolution 58, a proposed constitutional amendment to prohibit the poll tax requirement as a prerequisite to voting for national officers.

Mr. President, since that time there have been a number of developments. I have stated time and time again on this floor that this joint resolution is an attack upon the sovereignty of the States; that it is an attack upon our dual system of government; that it is an attempt to deprive the people of this country of a fundamental American right, namely, the right to make decisions and to control their affairs at home. And I have stated that the one certain way to destroy this country is to nationalize all its institutions and create a strong Central Government in the National Capital.

Mr. HILL. Mr. President, at this point will the Senator from Mississippi yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Could there be anything farther from the concept of the Founding Fathers, who first fought the Revolutionary War and won it for us, and then wrote the Constitution, than such centralization of government?

Mr. EASTLAND. Certainly there could not be; nothing could be farther from that concept. In fact, if we were to pass this joint resolution, it would be the first great step toward repudiating the spirit of that great instrument, the Constitution of the United States, and the intention of the great men who wrote it.

Mr. HILL. Was there in that Constitution anything which was more jealously guarded or more jealously wanted than the provision which called for leaving to the States the fixing of the qualifications of electors?

Mr. EASTLAND. Certainly not, for that is a fundamental liberty. It is a fundamental liberty. It is fundamental to our entire system that the States have the absolute power to fix the qualifications of voters.

Mr. HILL. Mr. President, will the Senator from Mississippi yield further to me?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is not that absolutely fundamental to our dual system of government and to retaining the power in the hands of the people, if there is to

be a democratic system of government of the people, by the people, and for the people?

Mr. EASTLAND. That is exactly correct. There cannot be a government of the people, by the people, and for the people unless the people themselves at the local level have the power to fix the qualifications of electors and to handle their own local affairs. The National Government was created largely for interstate commerce, bankruptcy matters, a uniform system of currency, the common defense, and to handle the foreign affairs of the United States.

The Senate and the people of the United States generally should realize here and now that the fight we are now making to protect the constitutional powers of the sovereign States goes far beyond the borders of any one geographic area of our country. The President in his message to Congress said that he was interested in only two areas of civil rights at this time—abolition of the poll tax as a requirement for voting and the adopting of the antiliteracy bill which will soon be before the Senate.

I have on my desk a proposed bill, S. 3059, which would add a new section to chapter 13 of title 18 of the United States Code. It has been recommended to the Congress by the Civil Rights Division of the Department of Justice, in a letter under date of March 20, 1962. It is designed under the pretext of clarifying a number of difficulties that the Department says it has found in prosecuting cases of police brutality under title 18 of the United States Code. It is bottomed on the old civil rights acts that were passed in the Reconstruction days. It, along with a companion bill which I shall discuss shortly, will completely emasculate local and State police authorities from performing their duty in the detection, apprehension, and conviction of people charged with violations of the laws of a State.

The language proposed for this new criminal chapter is as follows. It is headed, "Section 245—Imposition of Summary Punishment and Coercion of Statements."

The section reads:

> Whoever, under color of law, statute, ordinance, regulation, or custom, strikes, beats, assaults, injures or threatens or attempts to strike, beat, assault or injure the person of another for the purpose of inflicting summary punishment upon such other person or for the purpose of compelling such other person to make any statement shall be fined not more than $1,000 or imprisoned not more than one year or both; *Provided* that if physical injury results the punishment shall be by fine of not more than $5,000 or imprisonment for not more than five years or both, and if death results the punishment shall be by imprisonment for any term of years or for life.
>
> For the purposes of this section, summary punishment means any injury inflicted otherwise than in accordance with the procedures prescribed by state or federal law or regulation.

Mr. President, that was an old civil rights statute passed during the Reconstruction era, which the Department attempts to amend. It was then based upon race, but now race has been eliminated; and I say this proposed statute is so broad that it will mean that the Federal Government, through the Federal Bureau of Investigation, or by U.S. deputy marshals, will supervise every police department in this country, every sheriff's office in this country, and every law enforcement agency in the United States. This bill, if enacted would convert us into a police state.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is it not true that there are some 3,000 counties in the United States, and that each one of them has its own sheriff who is responsible for law and order in that particular county?

Mr. EASTLAND. That is correct.

Mr. HILL. Is it not also true that there are many cities and municipalities, and each and every one of them has its own police department under its mayor or president of the city commission?

Mr. EASTLAND. That is correct.

Mr. HILL. And these sheriffs and police officials are the ones who, from the very inception of our Government, have had the responsibility for the enforcement of law and order?

Mr. EASTLAND. That is correct.

Mr. HILL. Then, am I to understand that the proposal of the Department of Justice is to put all these sheriffs, and all the chiefs of police with their police departments—some 3,000 of them—under the Department of Justice, so to speak?

Mr. EASTLAND. The Senator knows that, under the bill to which I have referred, if a policeman were accused of slapping a convict or a criminal, the Department of Justice could go to the community and investigate him; and the Senator knows that when a local policeman is investigated, in effect it is an intimidation of that policeman and an intimidation of his department.

Mr. HILL. Will the Senator yield further?

Mr. EASTLAND. Yes, for a question.

Mr. HILL. In other words, that is an undermining of enforcement of law and order by the local authorities. Is that correct?

Mr. EASTLAND. That is correct.

I read from the letter to the Vice President of the United States which accompanied this proposal:

> This Department has encountered a number of difficulties in prosecuting cases of police brutality under section 18, United States Code, 242.

Mr. President, the bill to which I have referred would encourage the lawless elements of this country in assaults upon members of the police department. It would encourage a criminal who was being arrested by a policeman to become violent with the policeman, because then the Federal Government would step in.

In a moment I shall read a statement by Mr. J. Edgar Hoover, a great American, that the day of police brutality in this country is over. In the face of that, we have this bill. It shows that there is an effort to nationalize and control from Washington the police power of the States; and that is abhorrent to every single principle on which the American Government was founded.

Mr. President, I ask unanimous consent that there may be printed in the RECORD, at the conclusion of my remarks, S. 3059.

The VICE PRESIDENT. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EASTLAND. Mr. President, as you know, the Department of Justice has embarked upon two laudable undertakings. One is a drive against organized gambling and the other is a drive against organized racketeering, and the U.S. Senate has cooperated because it has passed a bill that the Department thought was necessary. But I tell you, Mr. President, the great question in this country is not in those two fields, but whether children and women are safe upon the streets of the great cities of this country. Has local law enforcement broken down? Can the Federal Government assist in making streets safe for women and children, regardless of their race, who go out upon the streets of the great metropolitan areas of the United States—women who venture out after dark around the very Capitol of the United States of America?

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is it not true that if the Federal Government in any way enters the field of law enforcement in the States and local communities, instead of taking action to undermine and break down the local authorities who have the responsibility, namely, the sheriffs, chiefs of police, and policemen, it ought to be sustaining and supporting and helping the sheriffs and local police officers?

Mr. EASTLAND. Of course. Let us take the Capital of the United States. God knows, if there is one place in the world where someone should be secure in his person, secure from robbery, from purse snatching, from assault, from rape, it ought to be the area around the Capitol of the United States.

We should have the support of the Department of Justice not only in this undertaking but also in seeing to it that the police are assisted in their great duty of making the streets safe.

I shall read from a story which appeared on the front page of the Washington Evening Star yesterday. The headline is "Police Escort Capitol Hill Secretaries."

This is the news story:

> POLICE ESCORT CAPITOL HILL SECRETARIES
>
> Four police dog teams and a revitalized police escort service have been established to curtail Capitol Hill assaults and purse snatchings.
>
> District Police Chief Robert V. Murray said today that the four dog teams have been assigned to the area around the Capitol Grounds.
>
> A memorandum circulated by the Capitol Secretaries Club reported the new services came at the request of women working on

the Hill following a series of incidents, including the snatching of a purse from a Congresswoman.

The club also revitalized an arrangement originally made several years ago whereby the Capitol Police would provide escorts, on request, for women leaving the Capitol and its office buildings after dark.

An officer of the club said the service has been available all along, but few women knew about it. Club officers discovered the escort policy in discussing the crime problem with Capitol Police.

Mr. President, it is terrible when the police must escort employees of Senators and Representatives in Congress, and employees of the officials of the Capitol of the United States, when they leave their offices after dark.

Rather than to attempt to take over the police departments of this country, which are now doing the very best they can, the Federal Government ought to be cooperating. The Federal Government should not attempt to take over their functions.

The whole trend of the recent enforcement of law presents an alarming picture. We have seen the Mallory decision by the Supreme Court, to hamstring and to forestall the law enforcing officers of the United States. We have seen recent decisions concerning pleas of insanity, which cloak murderers, rapists, and other criminals with a sanctity unheard of in the development of our jurisprudence.

The Civil Rights Division of the Department of Justice, because it has nothing more to do, would go far beyond the judicial impediments by the courts, and would throw up a protective shield, under the terms of the bill, to intimidate law enforcement officers in their powers to make simple arrests for misdemeanors and felonies. I think the enactment of the bill would add to the security of criminals.

Why is there this drive against the law abiding? Why is there this protection for the criminal?

A police officer is underpaid at best. He risks his life and limb at all times in order to protect society. Now he is to be made a whipping boy, he is to be harassed and intimidated by the Federal Government every time he is called upon to make a simple arrest.

The bill which has come to the Congress would make the common law rule of reasonable force in making an arrest a mockery and a sham. It would make it a mockery and a sham, Mr. President, because the police of this country, in making arrests, would be afraid tc use that reasonable force which is necessary to secure the arrest. The police would be afraid of the great supergovernment which will swoop down upon them. When there are racial tones involved in an arrest in this country, that situation would apply more than ever.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Can the Senator think of anything which would do more to break down morale, to break down spirit, to break down esprit de corps, and to break down the will to be efficient and effective in the discharge of their duties on the part of the local sheriffs and police officers than the passage of such a bill as the Department of Justice has recommended and requested?

Mr. EASTLAND. The Senator is exactly correct, but that is not all. A bill has come to the Congress entitled an antilynching bill. It begins by saying, I tell the distinguished Senator from Alabama, that the Government will protect the rights secured or protected by the Constitution or laws of the United States.

Of course, that means that the Supreme Court—and there are some wild dreams over there—could define what is a right secured by the Constitution of the United States.

Mr. President, under the bill the Department of Justice would go further, and would give a right of action when police were negligent or did not use due diligence. There would be a right of action for damage. Instead of the burden of proof being on the complaining party, the bill would place the burden of proof on the town or the municipality or the county.

What this whole program seeks to do is to take from the States their police power and to nationalize it in the city of Washington, D.C. That is the whole program. These bills would encourage criminals to commit crimes.

We should have the support of the Federal Government. There are areas in New York City, in Chicago, in Philadelphia, and in the other great cities of the country where a person is not safe on the streets at any hour, day or night, where law and order have broken down, where the police are not able to cope with criminals. I say, rather than having a drive to nationalize the police power and to deprive the States of their police power and their powers to fix qualifications for voting, the best thing the Federal Government can do is to help the local police make it safe for anyone to appear on the streets at any time, day or night.

I wish to read from a column written by a very noted columnist, the Honorable Holmes Alexander, which has appeared in numerous newspapers in this country:

Recently there began a round robin of holdups and robberies of public buses. Recently half a dozen Negro boys boarded a bus in the Negro section of Washington, beat the white driver into submission, took $30 from him, and went their ways.

A busload of Negro passengers sat there and watched it all happen, but none of them came to the driver's aid. None of them, except a 16-year-old youth (who gave a false address), stepped forward as a witness to the crime.

My mail is cluttered with press releases from an African city about world rule by law, and I have interviewed a past president of the American Bar Association, who is pushing the idea. But when such crimes happen almost nightly in this privileged Capital of the free world, a city without industrial slums, with integrated schools, with gobs of money from a generous Congress for social uplift, what is a man to write? Can he rationally write that races are equally law-abiding when the police statistics jeer at the thought? Can he believe that this city is any more ready for "democracy" than Léopoldville? Can he plausibly agree with the liberals that the Southern States, all of them founded by Anglo-Saxons with centuries of background in self-rule, should submit to rule by a Negro majority or near majority?

At the turn of the year I was polled, along with many others, by a Negro publication on Negro needs. Many of my colleagues checked "civil rights," "education," and "equal job opportunity," but my first choice was "crime prevention." If Negro leaders could do this basic thing for their people—get substantial numbers of them out of the criminal classes—many other good things would follow.

It is not good enough to boast by press release that some punk was just arrested in Podunk, or to hear the Attorney General vow his attachment to clean living and clean government. Action is what we need, and there is no better place to begin than in the Federal City.

BRING IN TROOPS

Troops were brought into Washington to shovel snow which threatened to break up the inaugural ceremonies in 1961. Troops were sent to Little Rock to enforce a Supreme Court order. It would be equally logical to put this city, or parts of it, under martial law during the night hours and holidays. The streets are unsafe. The Metropolitan Police are admittedly losing control. The criminal groups are not demonstrating for bread or for political rights. It is sheer lawlessness.

Americans have a tradition about this sort of thing. In times past, in the West and in the South, when authorities could not, or would not, keep order, citizens formed vigilante bands which took law and punishment into their own hands.

This is undesirable—and it is preventable. It is up to the Government of the United States.

Mr. President, that is the end of Mr. Alexander's column, which had wide circulation in the United States. But I think it does picture happenings in this country. The great overriding question in which we ought to have the help of the executive branch of the Government is not the anti-poll-tax bill. The question is not gambling, though gambling is a proper field for a Federal program. Of course, organized interstate racketeering is a proper target for the Federal Government. But I say that the great overriding question is the safety of the individual on the streets of the Capital of the United States.

Frequently I have heard people say, "I must vote for this, because if I do not, what will they think abroad? What will the Congo think? What will Ghana think? What will Peru think? What will Russia think? What will Germany think? What will England think?"

Mr. President, what do such people think when Government employees are not secure in their persons around the very seat of government of the United States?

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is not the responsibility for the government of the District of Columbia, which in an earlier statute was referred to as a Federal city, the

responsibility of the Federal Government?

Mr. EASTLAND. It is the sole responsibility of the Federal Government.

Mr. HILL. Why does not the Federal Government meet its own responsibility, which is definite, clear, precise and commanding, rather than seek to invade the rights, duties, and responsibilities of the States and the local communities?

Mr. EASTLAND. The Senator is exactly correct. I should like to ask the Senator from Alabama a question. Are there not many areas in the District of Columbia in which the Senator would not venture at any hour, day or night?

Mr. HILL. The Senator is exactly correct.

Mr. EASTLAND. The Senator is a distinguished Member of the U.S. Senate. Yet the Senator has said on the floor of the Senate that he would not venture into areas of this city, which is the seat of government of our country, at any hour, day, or night. Mr. President, that is a correct statement.

Mr. President, measures such as those proposed would make the Federal Bureau of Investigation a superpolice agency, and it would supervise the law enforcement activities of every city, county, and town in the Union. I do not know what is meant by the word "summary." Webster defines the word as "comprehensive; summarizing concisely; done without delay or formality; as, summary vengeance." He says that in law it means "of, pertinent to, or using a summary procedure; used in, or done by, summary proceeding."

I suppose it is actually designed to mean anything the Department of Justice wants it to mean when it goes meddling into the affairs of State and local police departments. But I say that it is a serious and far-reaching matter.

Mr. President, the Civil Rights Division does not advance even one slight reason or justification for the enactment of so far reaching a piece of legislation as this proposal is. With crime rampant in these United States, local law enforcement officers from one end of the United States to the other would be confronted with a new and unique definition of criminality on their part, for which they can be subject to not only criminal sentences, but also civil sanctions.

The great Director of the Federal Bureau of Investigation, J. Edgar Hoover, as late as the March 1962 issue of the Law Enforcement Bulletin, stated in the lead editorial to all law enforcement officials in the United States:

> But for a few isolated instances, the day of police brutality is past.

In another section of the editorial he states that the FBI is charged with the responsibility of investigating alleged violations of the law.

What is the purpose of these bills? Mr. Hoover has stated that, except for a few isolated instances—and we do not legislate for a few isolated instances—the day of police brutality is past.

I say the purpose of this whole program is to establish a nationalized police.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is there any man in the United States who can speak with more intimate knowledge and with greater authority and one in whom people have greater confidence, than Mr. J. Edgar Hoover?

Mr. EASTLAND. There is no one in this country who can speak with a greater knowledge. He is regarded as absolutely conscientious and sincere, a man in whom the people have implicit confidence. I believe that the idea of a national police is absolutely abhorrent to him. Yet that would the result of the enactment of the two bills that are now presented. The resolution is a great step in the same direction of nationalization, because it would deprive the States of their rights. The great question for the National Government in the field of crime is to assist, under the American system, in stopping rape, murder, robbery and other violence that constantly and daily and hourly occur in the great metropolitan centers of the United States.

In the course of my first discussion of this matter, I joined in support of the point of order that is proposed to be made by the distinguished senior Senator from Georgia [Mr. RUSSELL] on the substitution of a constitutional amendment for matter that is legislative in character and requires the signature of the President of the United States in order to be finalized as statute law. Under our Constitution, this point of order is well taken, and when and if the Senate is called upon to vote, it should be sustained.

I also pointed out during my first discourse on this subject that the present administration was taking a most ambiguous position. The President suggested to Congress in his state of the Union message and reiterated in a letter to the distinguished senior Senator from Florida [Mr. HOLLAND], which was read on the floor the other day, that the poll tax as a prerequisite for the exercise of suffrage in five States of the Union should be deleted from the laws of the five States by the route proposed to be adopted in Senate Joint Resolution 58. I now reiterate that this position of the administration is directly contrary to the official policy adopted by the Government of the United States with reference to voting in the United Nations. The United States takes the categorical position that any nation which is delinquent in the payment of its assessments as levied by the General Assembly of the United Nations should be denied the privilege of voting in that body, and this denial of the right to vote would continue until such time as the delinquent assessment was paid in full. I challenge anyone to deny that there is any difference in the principle involved in denying to members of the United Nations the right to vote for failure to pay assessments and the reasonable requirement of Southern States that a small poll tax of $1.50 or $2 be paid before the individual can exercise the privilege of franchise.

Let me say at this point that the man who is unwilling to put up $1.50 or $2 for the support of the school system and the education of our youth is not a worthy subject of the franchise. It is not a right, but a privilege, which can be granted or denied by the States, except under two amendments to the U.S. Constitution.

Constitutionally and historically, the exercise of franchise is a privilege that is granted by the sovereign States, and not a right that can be asserted as being inherent in the act of living and breathing. I again state that under every standard of logic and reason, the administration should either change its views in regard to the anti-poll-tax amendment or reverse the position it now takes concerning the payments of assessments by delinquents in the United Nations as a condition to the exercise of franchise.

It is one of those coincidental ironies that the vehicle selected to transplant a constitutional amendment on legislation should happen to be a resolution that would establish a memorial to one of the fathers of our constitutional system, Alexander Hamilton. It may even be that this former dwelling of Alexander Hamilton which is proposed to be perpetuated as a national monument may be the selfsame place where Hamilton sat down and penned the immortal words that are contained in his share of the Federalist Papers. While Hamilton would be the first to concede that the people can achieve any desired purpose by amending the Constitution of the United States in the manner and form therein provided, he would stand before the people forever and deny the wisdom and sense in attempting to pass a proposed constitutional amendment such as that now before discussion. The actual author of Federalist Paper No. 52 is in dispute. It is attributed to either Hamilton or Madison. Regardless of which one of the two fathers of our constitutional system actually penned this essay, there can be no doubt but that both of them subscribed to the sentiments therein expressed. This Federalist paper states:

> The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention, therefore, to define and establish this right in the Constitution.

It was so established and so defined in atrticle I, section 2, which provided that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Now it is sought to supplant Alexander Hamilton, in the joint resolution, with a poll tax amendment. I will quote what one of the great mean who founded our country said.

Mr. HILL. Mr. President will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Do we not all recognize the brilliance and greatness of Alexander Hamilton; and do we not also consider him in our history to have been one of the men who most strongly favored what we might call more centralization of Government in Washington? Did he not favor centralization more than the other Founding Fathers?

Mr. EASTLAND. That is exactly true. I think we ought to have the ear of the distinguished senior Senator from California [Mr. KUCHEL], because Alexander Hamilton really was the father of the Republican Party. I am about to read further from a statement by Mr. Hamilton.

Also, I further believe that Abraham Lincoln would have taken the same position which a number of us take on the floor of the Senate today.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is it not true that Thomas Jefferson was the great advocate of States rights and local self-government?

Mr. EASTLAND. That is correct.

Mr. HILL. It is not true that Abraham Lincoln declared that the principles of Thomas Jefferson are the maxims of all free society?

Mr. EASTLAND. What the Senator from Alabama says is exactly correct. Thomas Jefferson was the father of the great Democratic Party. He is a man whom we all love and revere.

I quote further from Alexander Hamilton:

> To have left it open for the occasional regulation of the Congress, would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States, would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone.
>
> To have reduced the different qualifications in the different States to one uniform rule, would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention.

Thus, the fathers of the Constitution speak their piece on the question of who has and who should have the power and right to establish qualifications for voters.

In my original speech I buttressed the position taken in the written words of the Constitution and from the writings of the contemporaries who lived at the time it was drafted with innumerable decisions of courts, both Federal and State, which have uniformly held the poll tax to be a reasonable requirement for the privilege of exercising the right of suffrage. I have not yet exhausted the text of many of these cases, and hope that the opportunity will be presented to me to return to them during this present discourse.

It is no pleasure for us who are opposed to the enactment of an amendment such as that which would now be presented to the Senate, to have to stand here day after day, hour after hour, and assert our reasons for this opposition at length and in great detail. I do believe, however, that this extended debate in the U.S. Senate, like all such debates that have taken place in the past, is healthy and gives the opportunity for the people to be enlightened on the issues that are drawn in the Congress. The proponents of this amendment are in the position of straining a gnat and swallowing a camel, because the little matter of a poll tax imposed by five States is not even worthy of consideration of Congress and the legislatures of three-fourths of the States in order to be made a part of that immortal document which is the fundamental charter of our Government. However, the principle involved in the proposed amendment is most profound and far reaching, because it is another step toward the destruction and annihilation of the dual system of government that is the heart and genius of the U.S. Constitution. When the day comes that the people of 50 States are pressed into one conglomerated mass, that is the day when liberty and freedom will be forever dead. The greatest contribution that has been made to mankind by the English-speaking people is a demonstration that government should be built from the bottom up, and not imposed from the top down. It is the people living at the level of local communities who worked out the rules of human conduct incorporated throughout the centuries in the body of our common law that have made possible a kind and character of individual liberty and freedom never before witnessed at any time or at any place on the face of this earth.

Mr. HILL. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. HILL. Is it not true that today the British—the English—have the most democratic government in the world except our own Government?

Mr. EASTLAND. Yes; that is true.

Mr. HILL. Is it not true that throughout the years the British Government has moved further and further from the centralization of power to the vesting of power, responsibility, and authority in the hands of the local people?

Mr. EASTLAND. What the Senator from Alabama says is exactly correct. Before Hitler, Germany had a system similar to ours. Hitler destroyed it. When his dictatorship was destroyed, Germany went back to the old system, under which the police power resided at home, where the people could make their own decisions for their own institutions at the local level.

Mr. KUCHEL. Mr. President, will the Senator yield, with the usual guarantees that he will not lose the floor?

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished senior Senator from California provided I do not lose my right to the floor; provided I regain the floor at the conclusion of his remarks, to continue my speech; and that when I resume it will not count as another speech on this subject.

Mr. MUSKIE. I object.

The PRESIDING OFFICER (Mr. HICKEY in the chair). Objection is heard.

Mr. KUCHEL. Mr. President, will the Senator yield for a question? I wish to ask my able friend from Mississippi to yield to me for a question. I do not understand why the distinguished acting majority leader does not object when a Senator on the majority side asks for the right to interrogate the Senator from Mississippi, but when a Senator on the Republican side asks for a similar privilege it is denied. I ask my friend to ponder that.

Mr. MUSKIE. Mr. President, I have no objection to a question.

Mr. KUCHEL. Mr. President, will the Senator from Mississippi yield for a question?

Mr. EASTLAND. I yield for a question.

Mr. KUCHEL. Is it not true that the platform of the distinguished Democratic Party, to which my friend adheres, promised the American people that the poll tax would be abolished by Federal legislation?

Mr. EASTLAND. To be perfectly frank, I do not know; I never read that.

Mr. KUCHEL. If the Senator will permit——

Mr. EASTLAND. Wait a minute; I yield only for a question.

Mr. KUCHEL. Is it not true that the 1960 platform of the Democratic Party provides:

> We will support whatever action is necessary to eliminate literacy tests and the payment of poll taxes as requirements for voting.

Mr. EASTLAND. As I told the Senator, whether it stated that or not, I do not know.

Mr. KUCHEL. If it did state that——

Mr. EASTLAND. What is the Senator's question?

Mr. KUCHEL. If it did state that, I ask my friend whether he repudiates it.

Mr. EASTLAND. I tell the distinguished Senator from California that I am a Senator of the United States, elected by the people of my State to the U.S. Senate; that my first allegiance is to my country, not to any political party; that no group of politicians representing special interests, and sitting in a smoke-filled room, can control my vote as a Senator of the United States; and God knows that if this country is ever destroyed, it will be destroyed when political conventions control the votes of Members of Congress. God forbid that such a thing would ever come about.

Mr. KUCHEL. Mr. President, will the Senator from Mississippi yield further?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from California?

Mr. EASTLAND. I yield for a question.

Mr. KUCHEL. When the Senator from Mississippi refers to the machinations of a group of politicians in a

smoke-filled room, does he refer to the machinations of the members of his political party when they met in Los Angeles to draft this platform?

Mr. EASTLAND. I think the platforms of both political parties were written in that way; that is my judgment of the matter. And I think I would violate my oath of office if I allowed a political convention to bind my vote as a Senator of the United States.

Mr. KUCHEL. Mr. President, will the Senator from Mississippi yield further?

Mr. EASTLAND. I yield for a question.

Mr. KUCHEL. Yes, for a question, only; in other words, assuming that the Senator from California has accurately stated——

Mr. EASTLAND. I ask the Senator from California please to ask his question.

Mr. KUCHEL. Mr. President, if the Senator from Mississippi will yield for a question——

Mr. EASTLAND. Yes, for a question, only.

Mr. KUCHEL. Does the Senator from Mississippi repudiate that plank of the Democratic platform?

Mr. EASTLAND. I am here opposing it. The Senator from California says it is in the platform. I said I did not know; I said I had not read it. But I said that I am not bound by anything in the platform of any political party.

Mr. KUCHEL. I thank my friend.

Mr. EASTLAND. If that is repudiating it, it is repudiating it. But those are the facts about it.

Mr. KUCHEL. I thank the Senator from Mississippi.

Mr. EASTLAND. I owe my first allegiance to my country. I have taken a solemn oath to uphold and defend the Constitution of the United States. If I permitted a crowd of politicians at a political convention to bind my vote, why, Mr. President, I would be repudiating my oath of office.

Refreshing my memory, I will inform the Senator from California that I had the honor to be one of the representatives of my State on the platform committee at the Democratic National Convention. I opposed this plank in the platform, and I opposed others, in the platform committee; and when the platform was presented, the repudiation by my colleague, Senator STENNIS, and by me—both of us were on that committee—and the repudiation of the entire platform by our State convention were filed in the convention. And we did repudiate it—and justly so.

But regardless of whether one repudiates a platform, a great fundamental question is involved: A Senator of the United States, under his oath of office, must reach decisions which he believes to be constitutional and which he believes to be best for his country. He must do that regardless of what some politician or what some political convention may have said. And, Mr. President, if I were to reach any other decision or any other conclusion, I believe I would be acting in violation of my oath of office.

Of course every Member of the Senate is entitled to his own view in regard to what he should do; and he is entitled to reach that decision without criticism from the senior Senator from Mississippi.

Mr. President, when the Central Government attempts by transitory majorities in a legislative assembly to bend and abrogate rules that are the quintessence of the best that can be devised by human experience, then we begin the destruction of the brightest jewel that is in the crown of our birthright. I beg and plead again with the Senate to let the States and the people manage their own affairs in the time-honored tradition, rather than impose another federalizing amendment upon them.

I should like now to analyze in more detail exactly what Senate Joint Resolution 58 proposes to do and to demonstrate how ridiculous it is in view of the various provisions in the constitutions and statutes of the 50 States regarding the exercise of the franchise by the citizens of those States.

Mr. President, Senate Joint Resolution 58, proposing to amend the Constitution of the United States relating to the qualifications of electors, was introduced on February 28, 1961. It was referred to the Judiciary Committee, and then to the Judiciary Subcommittee on Constitutional Amendments. Along with other proposed changes in the Constitution, it was the subject of public hearings on May 23, 26, June 8, 27, 28, and 29, July 13, August 25 and 30, and September 8, 1961. The serial print of the public hearings that involved Senate Joint Resolution 58, and a similar resolution, Senate Joint Resolution 81, was not published and made available to the Senate and the public until February of this year. The subcommittee, chaired by the distinguished Senator from Tennessee [Mr. KEFAUVER], has not yet reported to the full Judiciary Committee any proposed action in regard to this Senate joint resolution. Neither the subcommittee nor the full committee has been in the leastwise dilatory in regard to this matter. Over the years, countless hundreds of proposed constitutional changes have been introduced and never have received the considered attention of either the subcommittee, the full committee, or the Senate. The substance of Senate Joint Resolution 58 in one form or another has been before the committee since the Legislative Reorganization Act created the present committee system. Nothing is more worthy of grave and serious consideration than is a proposed constitutional amendment, and more particularly one which, with deliberation and premeditation, destroys fundamental rights and powers that are vested in the sovereign States.

Senate Joint Resolution 58 denies to the States the power and the right to make three particular requirements as a prerequisite to voting in any primary or other election for electors for President or Vice President, or for Senator or Representative in Congress. The three areas wherein the States are to be denied the right to impose conditions concern first, any poll tax; second, any other tax; and third, any property qualification. While it is true that the Congress and the States have the right and power to enact not only this insignificant amendment, but also one that would transform and revolutionize our entire system of government, the exercise of the power does not necessarily mean that the purpose sought is wise or in the best interest of the people. Let us remember that while Senators can deny a right or power in one limited area today, other rights and powers can be denied to them and to their States, tomorrow.

The greatest single miracle that was achieved in the promulgation of the U.S. Constitution was the welding together in a Republican framework autonomous and sovereign colonies that gave to the Central Government certain specific and delegated powers and retained for themselves and the people all other powers, rights, and privileges.

Students of government and political scientists from abroad have always marveled as to how a country such as ours could survive with the now existing 51 separate legislative, executive, and judicial systems. Our Founding Fathers made this the primary condition to the establishment of a Union.

Section 2, article I of the Constitution reflects the fixed intention of the Founding Fathers to require that portion of the entire population which should have the privilege of voting for candidates to a national office should be determined solely and alone on the basis of the qualifications of each separate State requisite for electors of the most numerous branch of the State legislatures. It provides:

> The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Francis Newton Thorpe, in his book, "The Constitutional History of the American People," sets forth charts and tables which show the qualifications of electors in the several States prior to, contemporaneous with, and subsequent to the adoption of the Constitution.

This chart reveals that, in Massachusetts, to vote one had to own a freehold with an annual income of 3 pounds or an estate of 60 pounds.

In New York, the voter must have had a freehold of 20 pounds or pay rent of 40 shillings. To vote for a State senator, the freehold had to amount to 100 pounds.

New Jersey required an estate of 50 pounds as a qualification of an elector.

New Hampshire and Vermont both required that the voter be a freeholder.

Maryland required a freehold of 50 acres or town lot or paid taxes equal to a tax on 50 acres.

Rhode Island required that a voter own 40 pounds in realty or 40 shillings per annual rent.

I ask unanimous consent that this chart be inserted in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[Extracts from "The Constitutional History of the American People, 1776-1850" by Francis Newton Thorpe (Harper Bros., New York), vol. I, pp. 93-971]

Qualifications of electors prescribed by the constitutions, 1776–1800

State	Constitution	Age	Residence	Property	Taxation	Religion [1]	Sex	Race	Native or naturalized
New Hampshire	1784	21	Town	Having town privileges, freehold.	Poll tax		Male		
	1792	21	do	Freehold			do		
Vermont	1777	21	1 year in State				do		Foreigner after 1 year's residence.
	1786	21	do				do		Do.
	1793	21	do				do		Do.
Massachusetts	1780	21	1 year in town	Freehold of annual income of £3, or estate of £60.			do		
New York	1777	21	6 months in county	Freehold of £20 or paying rent of 40s. Freehold of £100 to vote for State senator.	Taxpayer, or freeman of Albany or New York City.		do		
New Jersey	1776	21	12 months in county	Estate of £50			Male or female.	White or black.	
Pennsylvania	1776	21	1 year in State		Taxpayer		Male		
	1790	21	do		State or county tax		do		
Delaware	1776 [2]								
	1792	21	2 years in State		State or county tax		Male	White	
Maryland	1776	21	1 year in county	Freehold of 50 acres or property of £30.			do		
Virginia	1776 [2]								
North Carolina	1776	21	12 months in county	Freehold in county of 50 acres for 6 months before election may vote for State senator.	Paid public taxes, may vote for member of H.C.				
South Carolina	1776 [2]								
	1778	21	1 year in State	Freehold of 50 acres or town lot or paid taxes equal to tax on 50 acres.		Acknowledges the being of a God and a future state of rewards and punishments.	Male	White	
	1790	21	2 years citizen of the State.	Same as in 1778	If not freeholder, has paid tax of 3s. sterling.		do	do	
Georgia	1777	21	6 months in State	Property of £10 or being of a mechanic trade or a taxpayer.					
	1789	21	6 months in county, citizens and inhabitants of the State.						
	1798	21	do		Taxpayer				
Kentucky	1792	21	2 years in State or 1 year in county.				Male		
	1799	21	do				do	White	
Tennessee	1796	21	6 months in county	Freehold			do		

[1] In New Hampshire, Massachusetts, Connecticut, and Vermont in the 18th century, most of the electors were church members.

[2] Qualifications "as fixed by law"; see table below.

The qualifications of electors as prescribed by law [1]

State	Date of law	Age	Requirements
Massachusetts	Mar. 23, 1786		Freeholders who pay 1 single tax, besides the poll, a sum equal to ¾ of a single poll tax.
Rhode Island	1762	21	Inhabitants. £40 in realty, or 40s. per annum rent, or eldest son of freeholder.
Connecticut	1715	21	Realty—40s. per annum, or £40 in personal estate.
New York	Mar. 27, 1778		Every mortgagor or mortgagee in possession, and every person possessed of a freehold in right of his wife, vote viva voce for senators and assemblymen; by ballot for Governor and Lieutenant Governor.
New Jersey	Feb. 22, 1797	21	Free inhabitants having £50 property, and 12 months in the county. Women, aliens, and free Negroes, thus qualified, voted.
Pennsylvania	Feb. 15, 1799	21	Citizen of State 2 years, paying State or county tax 6 months before the election; sons of electors vote "on age"; i.e., at 21, without payment of the tax.
Maryland	{October 1785 / Dec. 31, 1796}		Free Negroes not to be electors.
Virginia	Law of 1762–69		Free Negroes and women not to be electors; an elector a freeman having 500 acres of land unsettled, or 25 acres sett ed, having thereon a house 12 by 12. Elector voted in the county in which the greater part of his land lay, if it lay in 2 counties.
Do	Law of 1781		Poll tax—½ bushel wheat, or 5 pecks oats, or 2 pounds sound bacon. Repealed November 1781, and made 10s.
South Carolina	Oct. 7, 1759		Elector—free white man possessing settled freehold estate, or 100 acres unsettled, or £60 in houses, or paying a tax of 10s.

[1] Neither by the constitution nor the law were free Negroes (males) denied the right to vote in New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, or Tennessee. There is evidence that they voted in New Jersey from 1776 to 1807 (see act of Nov. 16, 1807, limiting the right to vote to free white male citizens); in New York (acts of Mar. 27, 1778; Apr. 11, 1815; Apr. 19, 1822); in Pennsylvania under constitution of 1776 (see debate on inserting the word "white," as descriptive of the elector, in the report of the constitutional convention of 1838); in North Carolina (see debate on "abrogating the right of free persons of color to vote," under constitution of 1776, in debates of the constitutional convention of 1835); in Tennessee, from 1776 to 1834 (see "Caldwell's Constitutional History and of Tennessee," p. 93, and compare the qualifications of the elector under the 2 constitutions). In New England, if the town meeting admitted the free Negro to a citizen's rights, he could vote. Public opinion in Rhode Island refused him admittance (see Constitutional Convention, 1818," art. VI, sec. 2; and of Rhode Island, 1842, art. II, secs. 1 and 2). It was not an established right in law, in 1842, that a person having African blood in his veins could be a citizen of the United States; he could not become such by naturalization, as the law restricted naturalization to white men. Free persons of color [a] were denied the right to vote in New Jersey, by act of assembly, in 1807; in Tennessee, by the constitution of 1834; in North Carolina, by constitutional amendment, in 1835; in Pennsylvania, by the constitution of 1838. Thus, of the States that originally allowed them the right, New Hampshire, Vermont, Massachusetts, and New York never withdrew it.

[a] In New Jersey the right was taken away from them, from aliens, and from females—inhabitants—by the constitution of 1776, by act of assembly, Nov. 16, 1807. See debate on "abrogating the right of free persons of color to vote"; proceedings and debates of the convention of North Carolina called to amend the constitution of the State, which assembled at Raleigh, June 4, 1835, to which are subjoined the Convention Act, the amendments to the constitution, together with the votes of the people ("Raleigh, 1836," p. 351, et seq.). See also Curtis' dissenting opinion, *Scott* v. *Sanford*, 19 Howard 393. There is no evidence that free persons of color voted in colonial times.

Mr. EASTLAND. Mr. President, an examination of these charts will reveal that no two States have even remotely similar or uniform requirements for suffrage. In only one category of requirements out of eight is there uniformity—all provide that the prospective voter must be 21 years of age.

The diversity of rules, regulations, and laws laid by the several States, originally and as of today, for the privilege of the franchise are possibly greater even than those governing marriage and divorce. For my part, and on the part of my State, we no more want to interfere with your voting requirements in any election than we do with your State laws governing marriage and divorce. Just to read the various qualifications and disqualifications for voting in the 50 States is a most interesting experience. One of our Western States—Idaho—disqualifies bigamists, polygamists, prostitutes, or inmates of houses of ill fame; this State also disqualifies Chinese or persons of Mongolian descent, not born in the United States. Under "Voters' qualifications," the constitution of Minnesota has this most interesting provision:

Indians: Person of mixed white and Indian blood who has adopted the customs and habits of civilization; or

Person of Indian blood residing in State who has adopted the language, customs, and habits of civilization after an examination before any district court of the State in such manner as may be provided by law and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

Until recently the State of Texas disqualified for voting "soldiers, marines, and seamen while employed in the regular service of the Army or Navy of the United States."

Mr. President, I want it clearly understood as I go into this subject that I am not trying to pass any judgments on the wisdom or justice of the laws of any State of this Union, save my own, insofar as voting qualifications are concerned. The setting of these qualifications and requirements is peculiarly within the constitutional rights and privileges of the States themselves. However, the avowed purpose of the proposed constitutional amendment is to throw stones at the State of Mississippi and other States requiring a poll tax. So, as a purely academic exercise, I am going to take this occasion to comment on the voting requirements of some of the States and put these requirements in juxtaposition with those of other States.

The so-called literacy requirement of New York State is couched in this language:

Unless he became entitled to vote prior to January 1, 1922, must, in addition to above qualifications, be able to read and write English unless prevented by physical incapacity.

New York probably has more U.S. citizens who read and write a language other than English than any other State in this Union. It even publishes many newspapers in foreign languages so that these citizens and aliens residing there, these non-English-speaking people, can be kept informed and conversant with the affairs of this country. Regardless of the degree of literacy of this class of New Yorkers, mastery of English is an absolute necessity to qualify to vote either in National, State, or local elections.

Louisiana is another State that has long had many fine, outstanding, highly literate, native or foreign born non-English speaking citizens. Thus the literacy requirements of this State are contained in these terms:

Shall be able to read and write and, unless physically disabled, shall fill out his application for registration in writing in English, or in his mother tongue and shall sign his name. If he cannot write English, he may write it in his mother tongue from the dictation of an interpreter. If he is unable to sign his name, he may make his mark authenticated by the registrar who shall then read the application to him through an interpreter.

Applicant shall also be able to read any clause in the constitution of Louisiana or of the United States and give a reasonable interpretation thereof. Interpretation only, without reading, held sufficient if applicant otherwise qualified for registration.

Whenever an applicant for registration is unable to write his application because of inability to write English but can write only some other language and is not illiterate, he may sign his name to, or make his mark in the presence of two witnesses on an affidavit stating this. He must in such case bring with him two qualified electors of his precinct to sign written affidavits attesting the truth of the facts set out in the application and accompanying affidavit. It shall be a violation of this law for any elector to sign the affidavit to the application of more than two persons in any 2-year period.

In New Mexico, literacy is not required as a condition to voting and the constitution further provides in regard to this subject that:

The right of any citizen to vote shall never be restricted, abridged or impaired on account of religion, race, language or color, inability to speak, read or write English or Spanish languages except as may be otherwise provided in the constitution; and the provisions of this section and of section 1 of this article (qualification of voters) shall never be amended except upon a vote of the people of this State at an election at which at least three-fourths of the electors voting in the whole State, and at least two-thirds of those voting in each county of the State, shall vote for such amendment.

New Mexico had a further provision in its constitution wherein it disqualified for voting "Indians not taxed." This condition was declared unconstitutional in 1948.

Next door to New Mexico, Arizona requires as a prerequisite to voting:

Unless physically disabled, must be able to read the Constitution of the United States in English and to write his name.

Now, on the other side of New Mexico, Texas has no literacy requirement whatsoever. All that is required as a qualification for voting is that one be a citizen of the United States, 21 years of age, have 1 year residence in the State and 6 months in county next preceding. Texas has another substantial difference in its voting requirements from those of most of the other States—registration is not required. I want to call what I am now saying to the particular attention of my two colleagues from that great State. If this amendment is adopted and applied to the 1962 elections, with the law of Texas as it now is, the people of the great State are going to be denied the right to participate in the election of Members of Congress. Let me read to Senators what the election laws of the State of Texas provide:

Poll tax: Must have paid his poll tax before February 1, before election, or if exempt from poll tax, must procure a certificate showing his exemption.

Registration: Registration is not required. The lists of citizens who have paid their poll tax serve as a registration list. The certified list for each precinct of qualified voters who have paid their poll tax shall contain the following information about each person:

1. Number.
2. Name.
3. Precinct.
4. Age.
5. Length of residence.
6. Occupation.
7. Race.
8. Length of residence in city and ward.
9. Street and number of residence.
10. Post office address.

Poll tax receipt: Each poll tax receipt shall show:

1. Name.
2. Payment of tax.
3. Age.
4. Race.
5. Length of residence in State.
6. Citizenship, whether native or naturalized.
7. Place of birth.
8. Length of residence in county.
9. Voting precinct.
10. Occupation.
11. Post office address.

Thus, in Texas the entire method of qualification and the machinery of voting and holding an election is based squarely, solely, and alone on the payment of poll tax. Without the payment of the poll tax or exemption therefrom under Texas law, there is no way for an election official to tell who is, or who might be, qualified to vote in any election. State elections could be held as usual. But how could a State hold a national election when payment of the poll tax is the sole criteria for determining whether an individual is registered and qualified to vote? I am certain that Texas can solve this problem. But this points out how ridiculous it is to resort to a constitutional amendment to tamper with matters that have always been within the exclusive province of the States.

California, another State which has a possible problem of U.S. citizens who cannot speak or read the English language, also has a literacy test. It provides:

Must be able to read the Constitution in English and to write his name unless physically disabled or unless an elector or over 60 years old on October 10, 1911.

The 1950 census listed the white population of Alaska at 92,876 persons and the aboriginal stock at 33,853. The aboriginal stock is said to be composed of Aleuts, Eskimos, and Indians. I do not know what language these aborigines

may speak, read, or write. But if any of them do vote they had to meet this literacy test:

> He shall be able to read the U.S. Constitution in English and to write in the English language, unless he is prevented from complying with this requirement because of physical disability only, or unless he has legally voted at the general election of November 4, 1924.

Our last State, Hawaii, has a somewhat different literacy requirement from Alaska insofar as voting requirements are concerned. It takes into consideration the descendants from the original native stock. The State constitution of Hawaii provides:

> No person shall be qualified to vote unless he is also able, except for physical disability, to speak, read and write the English or Hawaiian language.

Mr. President, this review shows how States, far removed from each other geographically, or adjacent, have varied requirements, or make literacy or language no requirement for suffrage. I yield to no one in asserting the right of the State to adopt the course of action, or the requirement, or the lack of requirement, as it chooses. But fundamentally, the small matter of whether a $2 poll tax is required as a prerequisite to voting in Mississippi pales into insignificance when one considers the differences that exist in applying varied qualifications, or lack of them, to the people of the several States involved.

As I have stated before, voting requirement laws of the 49 States other than my own are of no legitimate concern to me as a U.S. Senator, or as a resident of the State of Mississippi. I am forced to consider them because this presently proposed amendment is aimed squarely at my State and its existing laws. Not having lived in the State of New York, it is understandable that I cannot appreciate the situation or condition that requires the legislature of that State to enact laws in the form that they now appear on the statute books. As a lawyer and an individual, it is hard for me to conceive or imagine the relevancy of the questions a prospective voter is forced to answer on the mandatory registration form as related to the voter qualifications.

Outside the literacy requirement, which has been previously discussed, a voter in New York must be 21 years of age on election day, must be a U.S. citizen at least 90 days prior to the election, and must meet residence requirements of 1 year in the State, 4 months in county, city, or village, and 30 days in election district next preceding the election.

Question No. 1 on the registration form is, "Has voter previously voted at a general election?" This question is irrelevant for any purpose other than to trap the voter in an untruth. If he is qualified, what difference does it make whether he voted previously at a general election in New York State or not? Of course, this does not give to those who have access to the registration books "a line on the individual"; information that might be of great value to some people at some time for purposes far removed from voter qualifications.

Question No. 2 is, "Enrollment number for party affiliation." I do not pretend to understand the reason for this question. I understand, at least as far as Senators and the high State offices are concerned, that party nominees were selected by conventions. If this is true, and one is qualified to vote, what possible relationship can party membership have to the casting of a secret ballot in a general election? Or, can an individual independent of any and all parties vote in a general election?

Question No. 3 is, "Sex." Why ask this? Does the fact that one is a male or a female have anything to do with voting or registration qualifications in New York State? Of course, this does constitute another little tidbit of valuable information for a dossier.

Mr. HOLLAND. Mr. President, will the Senator yield for a question?

Mr. EASTLAND. I yield for a question.

Mr. HOLLAND. I note on page 475 of the printed hearings on this subject that the dates of payment of the poll tax for the various States that require a poll tax are set forth. I wish to be sure that what is stated is correct.

Mr. EASTLAND. Will the Senator ask me a question, please?

Mr. HOLLAND. In the case of Mississippi——

Mr. EASTLAND. I have yielded for a question.

Mr. HOLLAND. In the case of Mississippi, is it true that February 1 is the date by which the poll tax must be paid in order to vote in the election?

Mr. EASTLAND. That is true. And it is the sole business of the State of Mississippi and does not concern the Senator from the State of Florida. The Senator from the State of Florida would take the same position on matters which concern the Senator's State.

Mr. HOLLAND. Likewise in the same report it is stated that 2 years' residence is required in Mississippi prior to the qualification for voting. Is that correct?

Mr. EASTLAND. I do not know. It could be 2 years. I thought it was 1 year.

Mr. HOLLAND. I am very particular to have the RECORD show the fact.

Mr. EASTLAND. I do not have the code with me. I do not remember whether it is 2 years or 1 year.

Mr. HOLLAND. Will the Senator check his code, and if the compilation is incorrect, will he so state for the RECORD so that we may have exact information?

Mr. EASTLAND. I shall put in the RECORD at some time, and at some place, the voting requirements of the State of Mississippi. I shall be glad to do so. As I said, it is a subject that concerns only our State and our own people and does not concern the distinguished senior Senator from Florida. I shall put it in the RECORD for him.

Mr. HOLLAND. I am only trying to show the facts. I ask again whether or not it is true, as stated in that compilation, which, incidentally, is published by the American Heritage Foundation——

Mr. EASTLAND. I do not know what the American Heritage Foundation is. I have yielded only for a question. If the Senator will ask me questions, I shall try to answer them.

Mr. HOLLAND. Is it true, as stated in the compilation, that the State of Mississippi does not permit absentees, other than those who are in the military service, to vote by mail?

Mr. EASTLAND. The Senator is correct. On several occasions—and let me again say that it is our own business—we have had an absentee voters law. I remember a close race for chancery clerk which almost resulted in a killing. An election official ran a pin through the envelope in which the secret ballot was cast, and then after the election he went back, found the ballot through which the pin had been run, and discovered that one of his close relatives, a man whom he was helping financially, had voted against him. It almost caused trouble. Our legislature saw fit, because they thought there was fraud in counting election ballots, to repeal the law. But it is a matter within our sole discretion, and we have no apologies to anyone for our laws in the State of Mississippi.

Question No. 4 is "Name of political party with which voter enrolls." This question might be even considered unconstitutional were it not for the fact that the State of New York has the sole and only power to determine the qualifications of its electors in both State and National elections. But even aside from this, it is difficult to see what remote relationship the question could have to casting a vote in a general election.

Question No. 5 is "Address." This is a legitimate and necessary question.

Question No. 6 is "Name." This is most necessary and legitimate, but why should it be No. 6 instead of No. 1?

Question No. 7 is "Age." This is also necessary and legitimate.

Question No. 8 is "Marital status." Why this question? What does it have to do with voter qualifications? But this is a necessary element to fill out the dossier.

Question No. 9 is "Term of residence." This is necessary and legitimate.

Question No. 10 is "Country of nativity." This language is awkward, but literate, English-speaking persons should understand it. However, it is just another expression to ask the simple question, "Where were you born?" and as such it is legitimate though not necessarily necessary to establishing the voting qualifications. Not one of the questions ask, "Are you a citizen of the United States?"

Question No. 11 is "If naturalized, how, when, and where?" This is most necessary and proper.

But question No. 12 is "Name of landlord." The address was given in No. 5. But now the question is not "Where do you live?" but "Who is your landlord?" This vital information has nothing to do with voting qualifications, but it is important information. If you own your

own home you have to admit that you are your own landlord. If you rent, lease, or even live in a hotel, someone is going to have access to information and the actual name of a person who knows something about the personal and private life of the voter. The dossier is filling out.

Question No. 13 is "Year when voter last registered, name of State and city or town."

Question No. 14 is "Address from which voter last registered or voted."

Question No. 15 is "Name and address of business or place of employment."

These 3 questions fill out the past and close out the present. If you would just add the fingerprints and a picture, the New York police force and the Federal Bureau of Investigation would have it completely made. A full and complete dossier on every qualified voter in the entire State of New York. I am one of those who is willing to grant to the State of New York and admit that it does have the right and power to require of its citizens any kind and character of information from them that it chooses. But why try to cover up and obtain the information circumspectly through a so-called voter registration application? Why not declare just a general registration day, or week, or month, every year or so, and require every person to register and vote.

As I have stated, questions in other States of the character of those to which I have referred do not concern the Senator from Mississippi. They are the business of those States and the people of those States alone. I do not think it is up to me to try to meddle in the affairs of another State or another area. It is contrary to our entire system of government to have national voter qualifications. If the proposal is adopted, we shall be on the high road to the nationalization of other voting qualifications.

It is said that the measure we are discussing applies only to the poll tax. I have been in the Senate a long time and I have seen things grow and expand. When the Federal Government once enters a field, it grows and expands in that field until it dominates it. When we permit the Federal Government to get into the area of voter qualifications—and other measures will be proposed—it will be said that they will do only some minor thing, and on that basis the other measures will be passed.

Mr. DWORSHAK. Mr. President, will the Senator yield for a question?

Mr. EASTLAND. I yield for a question.

Mr. DWORSHAK. The Senator has emphasized that when the Federal Government becomes interested in any project, its activity seems naturally to grow and grow, until finally it gets out of hand.

Mr. EASTLAND. Until it actually controls it.

Mr. DWORSHAK. Would the Senator from Mississippi apply his formula also to the national debt?

Mr. EASTLAND. What the Senator says is correct. If we ever get Federal aid to education, we will have all education controlled by the Federal Government.

Mr. DWORSHAK. Mr. President, will the Senator yield further?

Mr. EASTLAND. I yield for a question only.

Mr. DWORSHAK. Does the Senator believe that in the light of the many somewhat drastic proposals being submitted by the President and his administration to extend existing programs and to establish new ones, there is any immediate prospect of curbing Federal spending and holding the national debt within reasonable limits?

Mr. EASTLAND. There is no reasonable prospect. I believe the national debt will increase gradually, and I believe that the Federal Government will gradually go into other fields, if that is what the Senator means. If that is what he means, I agree with the Senator in that respect. That is true, regardless of the party that is in power. However, let me say that I am opposed to it. I am not going to vote to put the Federal Government in other fields. I am going to support the original concept of our dual system of government. I know that once we pass the resolution we will be back to voter qualifications, and that in future years it will be nationalization, and our elections will be nationalized and controlled from Washington. I know that then all human liberties in the United States will be dead. That is why I oppose the resolution.

EXHIBIT 1

S. 3059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 13 of title 18 of the United States Code is amended (a) by adding at the end thereof the following new section:

"§ 245. Imposition of summary punishment and coercion of statements

"Whoever, under color of law, statute, ordinance regulation, or custom, strikes, beats, assaults, injuries, or threatens or attempts to strike, beat, assault, or injure the person of another for the purpose of inflicting summary punishment upon such other person or for the purpose of compelling such other person to make any statement shall be fined not more than $1,000 or imprisoned not more than one year, or both: *Provided,* That if physical injury results the punishment shall be by fine of not more than $5,000 or imprisonment for not more than five years or both, and if death results the punishment shall be by imprisonment for any term of years or for life.

"For the purposes of this section, summary punishment means any injury inflicted otherwise than in accordance with the procedures prescribed by State or Federal law or regulation."

(b) By adding at the end of the table of sections for chapter 13 of title 18 of the United States Code the following:

"245. Imposition of summary punishment and coercion of statements."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HILL. Mr. President, in my rather extended speech on the question of the proposal with reference to the poll tax, on Thursday last week, March 15, I spoke about the fact that in the State of Alabama all persons over 45 years of age are exempt from the payment of any poll tax; that persons who served in any war in which this country has been engaged—the Spanish-American War, World War I, World War II, and the Korean conflict—are exempt from the payment of any poll tax; that all members of the National Guard of Alabama when they are on active duty or while they continue their membership in the National Guard are exempt from the payment of any poll tax.

So there are many, many persons in Alabama who are exempt under our poll tax law. As to those who have to pay the very small, minimal sum of $1.50, which is the poll tax in Alabama, I call attention to an editorial by a brilliant editor of the Montgomery, Ala., Advertiser, which appeared in that newspaper on Thursday, March 22, 1962.

This editor is Mr. Grover C. Hall, Jr., who is the son of the late Mr. Grover C. Hall, Sr. Mr. Grover C. Hall, Sr., was awarded a Pulitzer Prize for his brilliant writing and his great advocacy of justice for all people. Grover Hall, Jr., is carrying on today in the tradition of his distinguished father. The subject of Mr. Hall's editorial was the debate which is taking place in the Senate on the poll tax proposal. In his editorial Mr. Hall states:

It has been said during the debate that, of the five States still levying the poll tax, only Mississippi and Alabama employ it as a device to discourage Negro voting.

Mississippi can speak for itself.

Certainly Mississippi has spoken for herself in a most able and eloquent way this morning, when her distinguished senior Senator [Mr. EASTLAND] addressed the Senate and made one of the ablest speeches I have heard on the subject of the poll tax.

Mr. Hall goes on to say:

But as to Alabama, this is false.

The Advertiser placed a call to a Federal judge in the State. He could not remember that a case had ever arisen in this State where a Negro challenged the poll tax as a discriminatory device, and he had no personal knowledge or information that the poll tax is so used.

A call was made to a member of the Alabama Advisory Committee of the U.S. Civil Rights Commission: Ditto.

In other words, there the answer was the same: That no Negro had charged that the poll was being used as a discriminatory device to keep him from voting. Then Editor Hall says:

A call was made to the chairman of the advisory committee. His reply: There have been no official complaints, and it is his

personal opinion that the poll tax of $1.50 a year—maximum of $3 if the voter is delinquent—does not keep Negroes from voting.

The only person who thought the poll tax does keep Negroes from the polls was Dr. Foster, president of Tuskegee Institute. He believed that it is a psychological deterrent. He also thinks it is an economic deterrent, that it falls with more force on Negroes than whites because more Negroes are in lower income groups.

Mr. President, I do not know of anybody, no matter to what race he may belong, or what the color of his skin may be, who cannot pay $1.50 today, because we know that today $1.50 is a very small sum of money. Certainly there is no one who cannot pay $1.50. Under no circumstances, no matter how many years a person may be delinquent in the payment of his poll tax, the tax can never be more than the very small sum of $3.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. HILL. I yield for a question.

Mr. EASTLAND. Is it not true that the State civil rights commission would be seeking complaints of this kind?

Mr. HILL. They are trying to find individuals who have complaints of this kind.

Mr. EASTLAND. Do they not seek such complaints?

Mr. HILL. They seek such complaints.

Mr. EASTLAND. And they have not received any complaints?

Mr. HILL. According to the chairman of the commission in Alabama, according to a member of the commission in Alabama, they have not received one single, solitary complaint, although, as the Senator from Mississippi well says, they are there not only to receive complaints; they are there to invite complaints. They are there seeking complaints.

Mr. EASTLAND. I concur in what the Senator from Alabama said about Mr. Grover Hall. He is an able editor; he is a loyal American; he is the son of a great American. If I remember correctly, the senior Mr. Hall bitterly opposed the Ku Klux Klan in the State of Alabama and spearheaded the opposition.

Mr. HILL. He did, indeed. As I said earlier, he was awarded a Pulitzer Prize for editorials he wrote. He was, indeed, an able editor.

The same is true, as I have said earlier, of Mr. Grover Hall, Jr.—Captain Hall, as I call him, because he was a captain in the Air Force during World War II. He rendered outstanding service to the Air Force, operating out of Great Britain, which, as we know, was our main base for the bombing missions which did so much to bring that war to an end and made it possible for the landings on the Normandy beaches. The Air Force contributed mightily to the saving of American life and to the winning of that war. Capt. Grover Hall was on duty and served with our Air Force which was based in England during World War II.

Mr. HOLLAND. Mr. President, will the Senator from Alabama yield?

Mr. HILL. I yield to the Senator from Florida for a question.

Mr. HOLLAND. Is it not true, as set forth on page 475 of the printed record of the hearings before a subcommittee of the Committee on the Judiciary on this subject, that Alabama requires the payment of the poll tax by February 1 in order to enable a person to participate in the elections of the following November?

Mr. HILL. That is correct; but there is nothing unusual about that. The people of Alabama pay their taxes from October 1 to January 1.

In this case, the State is more accommodating and liberal. It makes the payment of the poll tax easier by granting an extra month, to February 1. There is nothing unusual about that. Everyone in Alabama who must pay any tax—a driver's license, a license to conduct a business—any kind of tax or license or payment of any kind which becomes due on October 1—has until January 1 to pay it. But in the case of the poll tax, the State grants even greater indulgence and gives more time by providing that the poll tax may be paid at any time up to February 1.

Mr. EASTLAND. Madam President, will the Senator from Alabama yield for a question?

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). Does the Senator from Alabama yield to the Senator from Mississippi for a question?

Mr. HILL. I yield to the Senator from Mississippi for a question.

Mr. EASTLAND. A few minutes ago the Senator from Florida asked the same question of the Senator from Mississippi, concerning whether the poll tax in Mississippi had to be paid by February 1. The truth is that all taxes except automobile licenses have to be paid by February 1 each year.

Mr. HILL. The truth is that in Alabama——

Mr. HOLLAND. Madam President——

Mr. HILL. Madam President, I have the floor. I have not yielded to the Senator from Florida.

So far as licenses in Alabama are concerned, as the Senator from Mississippi has said, all persons have to pay their taxes and their license fees, including their driver's license fees, from October 1 to January 1. But in the case of the poll tax, the time for payment is extended to February 1.

Madam President, now I yield to the Senator from Florida for a question.

Mr. HOLLAND. Madam President, I am not making the point of order now, but I did wish to warn the Senator from Alabama that he has been yielding for speeches. I request that he should not do so.

Mr. HILL. Madam President, that is the reason why I did not yield to the Senator from Florida. I knew he wanted to make a speech. He did not want to ask a question. That was the reason why I did not yield to him. I shall yield only for a question, as provided in the rules. I ask the Chair to protect me in my rights when I yield only for a question.

Madam President, in the very able address which he made earlier this morning, the distinguished Senator from Mississippi [Mr. EASTLAND] referred to a letter which came yesterday to the President of the Senate—the Vice President of the United States—from the Department of Justice, asking for the enactment of an antilynching bill.

Madam President, I must say that I was surprised to learn that at this late date the Department of Justice is requesting the enactment of such legislation. If there is any lynching going on in this country today, I do not know of it, unless it may be by some of the gangsters in some of the big cities; and that is not classified as lynching. It is classified as gangsterism. Certainly there is no lynching in Alabama, Mississippi, or any of the other States in that part of the country.

Let me say that when I first came to the Senate—in 1938—the question at that time before the Senate was a so-called antilynching bill; and one of the greatest, most powerful, and most magnificent speeches I ever heard in all my life, I heard then in the Senate Chamber. It came from the lips of a Senator who was so great and so powerful that we spoke of him as "the lion of Idaho." I refer to the late great Senator William E. Borah. He tore that bill asunder, because of its attempted assault on the rights, duties, and responsibilities of the several States. Furthermore, Madam President, it may be of interest to others to know that on that occasion Senator Borah was joined in his opposition to that bill by the great liberal and great champion of democracy and of government of the people, by the people, and for the people, a man who stood out in the Senate before his time, the late great Senator George Norris, of Nebraska.

Mr. EASTLAND. Madam President, will the Senator from Alabama yield for a question?

Mr. HILL. I yield for a question.

Mr. EASTLAND. Does the Senator from Alabama realize that in the antilynching bill to which he has referred, a right of action is given for someone who has been mistreated; the bill would give him a right of action against a town, county, or city, for negligence of the police; and the burden of proof would be placed on the defendant?

Mr. HILL. In other words, as I understood the statement made earlier today by the Senator from Mississippi—and I have not had an opportunity to read the bill, I must say; in fact, it has not yet even been introduced, printed, and made available, so far as I know; or, if it has, at least I have not had an opportunity to read it—but, as I was saying, as I understood the statement the Senator made earlier this morning, the bill would practically try the local communities, cities, or towns; and that means that the State itself would be tried, because the sovereignty reposes in the State, and the city or town exercises only the authority of the State which the State delegates to it.

Mr. EASTLAND. Madam President, will the Senator from Alabama yield for another question?

Mr. HILL. I yield for a question.

Mr. EASTLAND. Does the Senator from Alabama realize that in its field the State is sovereign to the Federal Government; and that only in respect of the powers delegated to the Federal Government, the Federal Government is sovereign; and that that constitutes the dual sovereignty?

Mr. HILL. Yes. The State is sovereign in all its rights, powers, and authorities, except where, under the Constitution, certain powers and rights have been delegated to the Federal Government. But the basis of all sovereignty and the great reservoir of all sovereignty is the States themselves.

The fact is that there would not have been a Federal Government, and today there would not be any sovereignty on the part of the Federal Government, except for the delegation by the several States of the sovereignty which the Federal Government exercises under the Constitution of the United States.

Mr. EASTLAND. Madam President, will the Senator from Alabama yield for a further question?

Mr. HILL. I yield for a question.

Mr. EASTLAND. Does the Senator from Alabama realize that if such measures, which now are being sent to Congress, were enacted into law, they would constitute a great step toward the creation in the United States of a police state?

Mr. HILL. There is no question about that. As I understood what the distinguished Senator from Mississippi said earlier today, these measures would put the Federal Government—through the FBI, or through some other Federal Government agency—over our local law-and-order authorities—for instance, over our sheriffs. I call attention to the fact that there are some 3,000 counties in the country, with some 3,000 sheriffs, and there are many police departments and chiefs of police; and in my home city of Montgomery, Ala., we have a commission in charge of the city government. The commission is composed of three commissioners. One of them has immediate and direct responsibility for the operation of our police department and for the maintenance of law and order. But the bill would put under this Federal agency all those persons, who today have the responsibility for the maintenance of law and order.

Mr. EASTLAND. Madam President, will the Senator from Alabama yield again to me?

Mr. HILL. I yield.

Mr. EASTLAND. Is it not true that one incident of the creation of a police state must be Federal control of elections and determination by the Federal Government of who can vote and who cannot vote in the elections?

Mr. HILL. The Senator from Mississippi is absolutely correct, Madam President. After all, when any dictator wishes to establish a totalitarian form of government, he first takes over the police powers—whether he establishes a Gestapo, as in Germany; or an OGPU, as in Russia; or whatever name is given to the secret police. In that way he takes over the power to control local matters. He takes that power from the hands of the local governmental units, and centralizes the power in his totalitarian government.

As the Senator from Mississippi has so graphically described the situation, that is exactly what Adolf Hitler did when he came into power in Germany.

Mr. EASTLAND. Does the Senator from Alabama realize that these measures lead in that direction, and that that is why we are fighting against them?

Mr. HILL. The Senator from Mississippi is entirely correct. These measures certainly go in that very direction—as the Senator from Mississippi so well stated earlier today; and that is why today we are fighting against these measures.

Mr. EASTLAND. Is it not true that the real issue that is involved is much larger or bigger than the poll tax; the real issue at stake is the U.S. Government itself?

Mr. HILL. The Senator from Mississippi is entirely correct about that. The poll tax is only an incident in this entire situation; the poll tax is only a very small, minor issue in relationship to the big, all-controlling question of the overall centralization of power in a central government in Washington, D.C.

Madam President, the key to this entire debate is, of course, article I, section 2, of the Constitution. This is true in this debate, as well as in former debates on proposed constitutional amendments to abolish the poll tax. This is also true in the case of present proposals, as well as former proposals, to abolish the poll tax by statute.

Because it preserves and secures to the States their rights to prescribe the qualifications for electors for Members of Congress, article I, section 2, together with the same language of the 17th amendment, supplies the bedrock of my argument, as, indeed, it does for nearly any argument against all such proposals which would diminish the power of our States to prescribe the qualifications of their electors.

The history of the adoption by the Constitutional Convention of article I, section 2, the discussions of article I, section 2, in the various States at the time of ratifying the Constitution, and the various Supreme Court decisions which have construed it, are all relevant to the question of the constitutionality of a statute to abolish the poll tax.

Such historical considerations are also relevant with respect to the merits of a proposed constitutional amendment to accomplish the same thing. In the case of a statute, these considerations are controlling absolutely. In the case of a constitutional amendment, such considerations are crucial, because they demonstrate lucidly and convincingly why the power to prescribe the qualifications of electors was reserved to the States in the first place. The case for the preservation and continuation of this power in the States is just as valid today as it was in the great convention in Philadelphia in 1787.

Article I of section 2 of the Constitution of the United States declares as follows:

> The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

How could any language be clearer? How could any prescriptions be more definitely or more unequivocally stated than are the prescriptions in section 2 of article I? The section simply, clearly, definitely, positively, absolutely says—what? That the electors who shall vote for Members of the House of Representatives of the Federal Congress in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Madam President, it would seem that nothing could be clearer than the language in this section of the Constitution. Because of its great importance in connection with the question before us, I should like briefly to review again the situation prevailing at the time of the adoption of the Constitution. We must recall that in 1787, when the language of the Constitution was written, the States were absolute sovereigns. They had joined in the Declaration of Independence. They had proclaimed their independence of the British Crown. They had fought through eight long, terrible, and bloody years to win their independence, and they stood absolutely independent and free from any other sovereignty on this earth. Their own sovereignty was full, complete, and absolute.

So they gathered in Philadelphia in their sovereign capacities, through their delegates to write the Constitution of the United States. The question was, How much of their sovereignty would they yield to the Federal Government? The Federal Government was not in being; it had no existence; it had no sovereignty. The only sovereignty it could have would be such sovereignty as was granted by the sovereign States of that time. Anyone who is at all familiar with the history of the writing of the Constitution knows how jealous were the several States of their sovereignty and how reluctant they were to yield very much of their sovereignty to any Federal Government.

Mindful of their sovereignty, zestful, and determined insofar as possible to keep within their own hands as much of that sovereignty as they could and still have a Federal Government to meet the problems which had to be met by a Central Federal Government, what did they do? They provided that every State should have two Senators; two Members in this body, no matter how large or how small the State might be, no matter what the population of the State might be, no matter what the economic power of the State might be, what its industrial development or its financial development or its agricultural development might be. No matter what might be the status of a State in its power, its influence, its ability to influence other States and

other persons in other States, every State in the United States should have equal representation in the Senate, should have two Senators. Then, as Senators will recall, they went one further step, and provided that no State should have its representation in this body reduced or taken away from it without the consent of that State. This meant that no matter how small the State might be, how weak, how ineffective, how uninfluential it might be, it would have equal representation in this body; it would have two Senators along with the two Senators of the most powerful, the wealthiest and the greatest State in the United States.

They did not stop there. The sovereign States, in their resolve and their determination to make secure the primary authority of the States, provided in the Constitution, before they yielded any sovereignty to the Federal Government, that State legislatures could originate amendments to the Constitution. That was one more step taken by the sovereign States to insure the primary authority of the States. They did not stop there. They went even further and provided that before the Constitution of the United States could be changed in any way whatever, before there could be one iota of alteration, before one single word could be taken out of that instrument, it had to be done by amendment, and that amendment had to be ratified by three-fourths of the States of the Union. As we know, ratification by three-fourths of the States means that it must be by both houses of the legislatures of three-fourths of the States.

Then, after the delegates representing the sovereign States had finished their work of writing the Constitution, putting in all the safeguards to insure the primary authority of the States, they closed the Constitution by writing into it the declaration that the Constitutional Convention acted "by the unanimous consent of the States" present. They wanted the people to know at that time, and wanted all succeeding generations to know, including the Senators sitting here in the year of our Lord, 1962, some 174 years after the Constitution was drafted, that it was these sovereign States which had drafted and formulated the Constitution.

Furthermore, even after the sovereign States, through their delegates at Philadelphia in the Constitutional Convention, had written into the Constitution all these safeguards, all these protecting clauses to insure the primary authority of the States, the people themselves—the people back home, who had the final say, who held the final authority in the matter, and without whose voting consent there could be no Constitution—were not quite satisfied. They could look down the years, and they could see that there might be some trick of legerdemain, some resort to parliamentary tactics, whereby someone wishing to rush through some proposal, unwilling to go through the lawful and orderly processes set out and ordained in the Constitution for its amendment, would seek to read into the Constitution powers for the Federal Government which the framers of the Constitution and which the sovereign States never intended the Federal Government should have, which the framers and the sovereign States never intended should be yielded by the sovereign States to the Federal Government.

So, before the people in their State conventions were willing to ratify the Constitution, to make it effective, and bring into being the Federal Government, they said, "We must have the first 10 amendments—the Bill of Rights." And, as we know, when the Constitution was finally ratified it was well and thoroughly understood that the first 10 amendments to it would be adopted. Let me read the ninth amendment. It specifically declares:

> The enumeration in the Constitution of certain rights—

That means the enumeration of certain rights in the Federal Constitution for the Federal Government—

> The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

The people insisted that, as a condition of their ratification, the Constitution should contain the ninth amendment, absolutely retaining in them the rights not specifically enumerated as rights of the Federal Government.

But the people did not stop with the ninth amendment, as Senators know. They insisted also on the adoption of the 10th amendment, and the 10th amendment was put in as a result of their insistence on a general safety clause for the rights of the State and the people.

We might call this amendment the great safety clause of the Constitution. What does the 10th amendment provide? It declares:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Could any language be stronger or more definite in absolutely safeguarding and protecting the rights of the States and the people from encroachments by the Congress of the United States, by the Federal Government, on those rights?

We recall that, even with all these safeguards in the Constitution itself to which I have called attention, and even with the agreement to adopt the 9th and 10th amendments, there was a great battle in most of the States over the ratification of the Constitution. At that time, the three most powerful and the three most influential States were Massachusetts, New York, and Virginia. In their State conventions, because of the fear that the sovereign States might be giving up too much sovereignty, that they might be putting too much power in the hands of the Federal Government, only 53 percent of the votes were for ratification.

As we recall, two of the foremost patriots of the Revolution, Patrick Henry, who sounded the tocsin of war and gave us the battle cry of the Revolution, and George Mason, who wrote the Virginia bill of rights, which gave us our Federal Bill of Rights, and the bill of rights in every State constitution—both these great patriots who had done so much to win our independence from the British Crown, to win our freedom, opposed the ratification of the Constitution. They felt, as did many of their compatriots, that there might be too great a surrender of sovereignty on the part of the States, that there might be too much yielding of power to the Federal Government.

I emphasize these points because the history of the ratification of the Constitution shows clearly that, if the sovereignty of the States and the rights of the States had not been positively recognized in the Constitution, if all these safeguards and protections for their sovereignty and their rights had not been put into the Constitution, the Constitution would never have been ratified, and we would never have had a Federal Government.

As we know, mankind had struggled through the centuries to break arbitrary power in the hands of a king. The high water mark of this struggle, to break down this arbitrary power and to bring about the distribution of this power into the hands of the people, was reached when we fought the American Revolution.

The framers of the Constitution knew that the States, with their State governments, county governments, city governments, and town governments, were the citadels of local self-government. They knew that their concept of government by the people required full and plenary recognition of the rights of the States. If the people were to hold and exercise the power of government, there had to be this recognition of the sovereignty of the States.

They were fighting against a pool of centralized arbitrary power at the seat of government. They were fighting to keep the wellsprings of our system of government in the hands of the people, in the local communities, at the crossroads, in the hamlets, the towns, and the cities. What would it have availed the people to break the tyranny of the British Crown had they themselves then set up here in Washington a government with central arbitrary powers? They were determined, after all the long sacrifice they had made and all their bitter suffering, to reserve the power in their own hands. To do this, I repeat, they knew that they had to maintain the rights of the States, because within the States are the citadels of this power. It is in the States that this power must reside. It is in the States that this power can function. And it is only in the States that this power can be preserved.

For 150 years, in fact not until these anti-poll-tax proposals first appeared, no record can be found that anyone ever questioned the provisions of article I, section 2 of the Constitution, that the electors who vote for Members of Congress shall have the qualifications of the electors who vote for the most numerous branch of the several State legislatures. Not until recent times has amendment of the Constitution even been suggested to alter this historic reservation of power in the States.

When the 14th amendment was submitted by Congress, there was no thought, no suggestion that the Congress could step in and fix or modify or change or prescribe the qualifications of the electors for Members of Congress or the qualifications of the electors for President and Vice President.

So, as I have said, for more than 172 years we have lived under the express language of the Constitution. I might say 172 glorious years, because in all the annals of human history there is no story quite so glorious as that of the progress, advancement, and happiness of the American people under the Constitution of the United States. There is nothing to surpass the freedom which our people have enjoyed to seek their own pursuits, to follow their own dictates of their minds, to advance their own interests and bring about their own development, to acquire and hold whatever their capacity, their genius, and the sweat of their toil might entitle them to.

We recall that the 17th amendment was adopted to the Constitution in 1913. That was 126 years after the ratification of the Constitution of the United States. After 126 years, when the people of the United States saw fit to change their method of electing U.S. Senators, when they desired to have their Senators elected, not by the legislatures, as provided in the original Constitution, but directly by the people themselves, what did they provide? They provided, in the 17th amendment, as follows:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for 6 years; and each Senator shall have one vote.

Then there is this language:

> The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

The people adopted the same, the identical language for the qualification of electors for the U.S. Senate that was adopted for electors for Members of the House of Representatives at the very beginning. In other words, they ratified and reaffirmed the wisdom of the Founding Fathers and of the Original States in providing that the qualifications of the electors for Members of the Congress should be the qualifications requisite for electors of the most numerous branch of the State legislatures.

I think it can be said here that had the 17th amendment made any change in the fixing or determination of those qualifications, it would never have been ratified by the people of the United States. The people were determined that these qualifications should remain, to be fixed by the States, and not by either the Federal Constitution or the Congress of the United States.

Madam President, as we know, for half a century some of the finest, most patriotic, and noblest women in our country, joined by splendid, outstanding, patriotic men, carried on the campaign for the removal of sex as a qualification for voting; they carried on the campaign to have women given an equal right to vote with men. But if we examine the record we do not find anywhere that any leader in the cause for woman suffrage ever suggested that women could by legislative enactment be granted the right to vote. That campaign, which was carried on for over half a century, recognized at all times the Constitution of the United States and particularly section 2 of article I of the Constitution in its full purport and its full integrity; and that campaign from the day of its beginning until its successful conclusion, was always a campaign for an amendment to the Constitution of the United States. As we know, when the 19th amendment was ratified and became a part of the Constitution, women were put on an equal basis with men so far as sex is concerned in the matter of the qualifications of voting. This is in contrast to those who would have us abolish the poll tax by statute.

So, as I have said, when the 14th amendment was submitted and ratified, when the 15th amendment was submitted and ratified, when the 17th amendment was submitted and ratified, and when the 19th amendment was submitted and ratified, the Congress of the United States and the people of the United States ratified and reaffirmed the integrity of section 2 of article I of the Constitution of the United States.

In the very beginning article I, section 2, vested in the State governments the power over suffrage. Without the possession of this power in the States, the whole structure upon which the division of State and National authority under the Constitution and the organization of both governments rests would be without support, and the authority of both State and Nation would fall to the ground. That is the basic reason why we should not change this section by amendment.

Madam President, in 1948, Judge Charles Warren, one of the most eminent constitutional lawyers we have known, appeared before the subcommittee of the Senate Judiciary Committee, which was then conducting hearings on an anti-poll-tax measure. Judge Warren made one of the clearest, one of the most erudite, and profound analyses of section 2 of article I that I have ever read. At this time I want to call that analysis to the attention of the Senate.

Judge Warren, testifying before the subcommittee, quoted section 2 of article I. I think the section is like the words of Scripture. It will stand quoting and requoting, and then perhaps quoting again; so that if the Senate will bear with me, before I proceed to discuss Judge Warren's analysis of the section I shall read it:

> The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Judge Warren then goes on to say:

> You notice that that is not a grant of power specifically to the Congress of the United States. In fact, it is not a grant of power to anyone. It is a requirement of the Constitution for the formation of the new Government. The first part of it is a requirement that the people of the several States shall choose Members of the House of Representatives every second year. That was no relinquishment or delegation of power from the States. That was a constituent part of the formation of the new Government, and was a command.

That, as Judge Warren said, was a command. It was neither a delegation of power nor was it a prohibition. It was a command, and is so referred to in recent cases by the Supreme Court.

Then Judge Warren goes on as follows:

> The second thing that section 2 did was: It vested a right in the electors in each State who have the qualifications requisite for electors of the most numerous branch of the State legislature—a right in those persons in the State, and those only, who were entitled to vote for Members of Congress.

In other words, as Judge Warren makes clear, it vested this right in the electors in the States to vote for Members of Congress. Judge Warren continues:

> That was not a delegation of power by the State, because the State never had the power to vote, the State inhabitants never had the power to vote for Members of Congress, because there were no such things.

There was no delegation of power. A State could not delegate a power which it did not possess. Certainly a State did not have any power to elect Members of Congress, because, until the formation of the Federal Government, there was no such thing as a Congress of the United States, and, of course, there were no Members of Congress.

Judge Warren continues:

> That was a direct provision in the establishment of the new Government, and it did vest a right, but it vested a right in only certain people to vote for Members of Congress.
>
> Now, the third thing that that section 2 contains is this: It contains undoubtedly an implied prohibition on the States against fixing for electors of the Members of Congress different requirements for suffrage from those which they fixed for the electors of their own most numerous branch of their legislature, i.e., any qualifications which were not those requisite for it to render an inhabitant of their own State eligible to vote.

That is an implied prohibition. The State was prohibited from establishing any kind of qualifications for electors for Members of Congress different from the qualifications of electors for the most numerous branch of the legislatures.

Judge Warren continues:

> Let me repeat that. There is undoubtedly an implied prohibition that the States cannot establish qualifications for electors of members of their own legislature different from those which they establish for electors of Members of Congress. That is neither a delegation nor a grant of power; that is an implied restriction, undoubtedly.
>
> Now, is there in that section 2 any grant of power whatever? Not specifically, of course. I suppose there is, under the necessary and proper clause of section 8 of article I, an implied power to Congress to do certain things, but what is the extent of those implied powers? It is to make all laws which shall be necessary and proper "for carrying into execution" the above provisions of article I, section 2.
>
> What are the provisions? I go back again. First, Congress undoubtedly has power to legislate so as to see to it that the States do elect Members of Congress every second

year. Congress undoubtedly has the power to protect the right which the Constitution vested in such persons in the States as had the qualifications requisite to vote for members of the State legislature. Congress undoubtedly has that power; and I think Congress has, under the necessary and proper clause, power to legislate so as to see that the States make the same provisions for qualification of electors of Members of Congress as they do for electors of their own legislature.

Those are the only three things that can be done under article I, section 2, and those are the only three things on which Congress can act under the necessary and proper clause, and "carry into execution" under that clause.

Madam President, let us go a little further in section 2. I think no one will contend—surely I have never found anyone who has ever contended—that Congress has any power to prescribe for the States whom they shall qualify to vote. Certainly no one has ever contended that Congress has any power to prescribe the qualifications for the electors who vote for members of the State legislature or other State officers or officials. As I said earlier in my remarks, before 1787 the States had absolutely full and unlimited power to establish any requirements which the people of the States, through their constitutions or legislatures, in their absolute discretion and judgment, desired in order to qualify any one of their inhabitants to vote for members of the most numerous branch of the State legislatures.

There was no limitation whatever upon the State, because, as I said in the beginning of my remarks, the State was absolutely sovereign, it had full and plenary sovereignty, it was subject to no other sovereignty, no other power, it was the complete master of itself, of its own actions, of its own constitution, of its own laws, of its own electors, of its own legislature, of its own officials.

As we know, at the time the Constitution was being written, in 1787, most of the States, at least nine of them, had spoken and fixed by their own constitutions the qualifications of those who should vote for the members of their own legislatures. We cannot forget, in considering this matter, that the delegates from these States knew exactly what those qualifications were in their States. They knew exactly what they were doing when they prescribed that those qualifications fixed by the States should be the qualifications for the electors for Members of the House of Representatives. It was with knowledge of these qualifications that the delegates acted in the drafting and the formation of the Constitution in the Constitutional Convention in Philadelphia.

They knew what these qualifications were, and therefore when they wrote into the Constitution that the qualifications for electors for Members of the House of Representatives should be the qualifications for the electors for the most numerous branch of the State legislatures, they knew exactly what they were doing. They knew exactly that as of that moment they were writing those qualifications into the Constitution as the qualifications for electors for Members of the House of Representatives. There can be no doubt that it was clear to them exactly what their actions meant. The same considerations that caused them to preserve and secure this power in the States are the considerations that should cause us to defeat the proposed constitutional amendment which is the subject of this debate.

Madam President, one of the greatest authorities in this country on the Constitution, and one whose viewpoint and feelings were definitely always toward the nationalistic theory, toward the idea of the centralization of power in Washington, whose views and feelings were always in favor of a centralized power of government, was Judge Story. Let me give the Senate his words, written in his commentaries. I quote from volume I, section 820, of Story's Commentaries. Judge Story declared:

There is no pretense to say that the power of the National Government can be used so as to exclude any State from its share in the representation in Congress.

That was written before the 14th amendment. It was true when Judge Story wrote it, because it was before the adoption of the 14th amendment to the Constitution.

Judge Story goes on to make this categorical statement:

Nor can it be said with correctness that Congress can in any way alter the right of qualification of voters.

It is interesting to note that when the Constitution went back to the States for ratification by the State conventions, certain questions were asked in some of the States about article I, section 2. The Constitution had to be ratified by at least nine of the States. In the Massachusetts convention there was a doubting Thomas by the name of Dr. John Taylor, from the town of Douglass, Mass. He wanted to be very sure about this thing. He wanted to make certain. He was fearful that section 4, the section with reference to the times, places, and manner of holding elections, not the section with reference to qualifications, might give Congress the power to prescribe a property qualification for voters in the sum, as he said of 100 pounds. He inquired of Mr. Rufus King, who, it will be recalled, was a member of the Constitutional Convention in Philadelphia and also a member of the Massachusetts convention, whether or not under section 4 Congress could in any way go into the question of qualifications. Mr. King, one of the leading members of the Constitutional Convention in Philadelphia, had this to say:

The idea of the honorable gentleman from Douglass transcends my understanding, for the power to control given by this section extends to the manner of election, not to the qualifications of the electors.

We find that quotation from Mr. King in volume II of Elliot's Debates, pages 49 to 51.

In the Pennsylvania convention, James Wilson who had been one of the outstanding men in the Constitutional Convention at Philadelphia, made this statement:

In order to know who are qualified to be electors of the House of Representatives—

That is, the Federal House of Representatives. They were considering the Federal Constitution, which was to bring into being the Federal House of Representatives—

In order to know who are qualified to be electors of the House of Representatives, we are to inquire who are qualified to be electors of the legislature of each State. If there be no legislature in the States there can be no electors of them. If there be no such electors, there is no criterion to know who are qualified to elect Members of the House of Representatives. By this short, plain deduction the existence of State legislatures is proved to be essential to the existence of the General Government.

Could anything be clearer, more positive, or definite than that?

Mr. Wilson went on with reference to section 4, the section with reference to times, places, and manner, not the section as to qualifications:

If the Congress had it not in their power to make regulations, what might be the consequences? Some State might make no regulations at all on the subject; and so the existence of the House of Representatives, the immediate representation of the people in Congress, depends upon the will and pleasure of the State governments. We find upon examining this paragraph that it contains nothing more than the maxim of self-preservation.

The great State of New York embodied a recommendation in its resolution of ratification. What did that recommendation say? What did it say, to you and me? Remember, they were talking to us. It said they ratified the Constitution "in full confidence that the Congress will not make or alter any regulation in this State respecting the times, places, and manner of holding elections for Senators or Representatives, unless the legislature of a State shall neglect or refuse to make laws or regulations for the purpose or from any circumstances be incapable of making the same."

The historic State of religious freedom, the little State of Rhode Island, ratifying the Constitution on May 29, 1789, copied without change the New York declaration, and added, after the final word of it, a comma and the words, "and that in those cases such power will only be exercised until the legislature of this State shall make provision in the premises."

Madam President, just a word about section 4 of article I. I shall not dwell on this provision, because the Supreme Court has made very clear that this section, dealing with the times, places, and manner of elections and giving Congress the power to act with reference to times, places, and manner, has nothing whatever to do and is in no way whatever germane or relevant to section 2 of article I, which deals with the question of qualifications.

The Supreme Court has made section 4 clear, and I do wish to call attention to the decisions of the Court, because I think any discussion of this subject should have some reference to the meaning of that section.

In 1931, in *Smiley* v. *Holm* (285 U.S. 355, p. 366), the Court spoke through its Chief Justice, Charles Evans Hughes. I

think no one will dispute that Charles Evans Hughes stands in the front rank among the great Chief Justices of the United States. I shall never forget the last appearance of Chief Justice Hughes before a joint session of the Senate and the House of Representatives. I can never forget the drama of that moment—the spontaneous overwhelming outpouring of tribute by all the Members of both the Senate and the House, irrespective of party lines, irrespective of whether they were Democrats or Republicans. They paid a wonderful, heartfelt, heart-stirring tribute to this great Chief Justice.

It has been my good fortune in the days I have been in Washington to know some of the members of the Supreme Court. I know the high regard in which they held Charles Evans Hughes. I know their estimate of the greatness of the man, the power, magnitude, and profundity of his intellect, his great capacity for the dispatch of business, for orderly procedure, for making certain that the Supreme Court of the United States carried on its high functions in the best of American traditions.

Mr. EASTLAND. Madam President, will the Senator yield for a question?

Mr. HILL. I yield to the distinguished Senator from Mississippi for a question.

Mr. EASTLAND. Is it not true that Charles Evans Hughes was not a Democrat or a Republican, but an American, and that he interpreted the law as it should have been interpreted, and not to please some pressure group or groups here or elsewhere in the country?

Mr. HILL. The Senator will recall that in 1916 Charles Evans Hughes was the nominee of the Republican Party for President, but all that the distinguished Senator from Mississippi has said about Chief Justice Charles Evans Hughes is certainly correct. His conscience was his guide. He had a magnificent, wonderful, and analytical mind. He was a great student of history. He had but one yardstick for measurement, and that was the Constitution of the United States and the welfare and future of our country.

Mr. EASTLAND. Does the Senator know that Charles Evans Hughes was a member of the Republican Party and the Republican Governor of New York State, as well as the nominee of the Republican Party for President, but that when he went on the bench, he was not a Democrat or Republican but was an American?

Mr. HILL. As the distinguished Senator from Mississippi has so well said, Charles Evans Hughes was the Republican Governor of New York. He was also the nominee of the Republican Party for President in 1916. But when he went on the bench, he cast aside all thoughts and all connections with the Republican Party or any other party, or any party affiliations of any kind, and sought to determine the cases presented to him according to the law, and the great provisions and principles written into the Constitution of the United States.

The Supreme Court spoke through Chief Justice Hughes in 1931. That was not too long ago to refer to the case as a recent case. The Court had this to say about section 4 of article I, the section dealing with the times, places, and manner of elections:

> The subject matter is the "times, places, and manner of holding elections for Senators and Representatives." It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registrations, protection of voters, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to the procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. * * * All this is comprised in the subject of "times, places, and manner of holding elections," and involves lawmaking in its essential features and most important aspect.

In this case Chief Justice Hughes had made clear that we can have our Federal Corrupt Practices Act; that we can make sure that the times, places, and manner be provided, so that the electors may duly and lawfully, and in an orderly manner, cast their ballots. That, however, has absolutely nothing whatever to do with the question of who the electors shall be, or the question of prescribing the qualification of the electors.

In other words, as Chief Justice Hughes makes clear, section 4 of article I simply prescribes the power of Congress to set forth, if necessary, the mechanism of the election. But that does not deal at all with the question of who shall be the electors. The section deals only with the orderly procedure, and the properly protected mechanism for the elector who is provided for in article I, section 2, to perform his duty of casting his ballot for a Member of the House of Representatives or a Member of the Senate.

As I stated earlier, section 4 of article I deals with the "how" of the election. It has nothing whatever to do with section 2 of article I, which deals with the "who" of the elector. They are two entirely different subjects.

I have quoted from the framers of the Constitution, showing how clearly and definitely they understood section 2 of article I to mean that the qualifications should be prescribed by the States and not by the Congress. I have quoted from the debates on the 14th amendment, showing that the authors and the advocates and proponents of that amendment held fast to the views of the framers and founders of the Constitution, that the Federal Government could not fix, prescribe, or alter the qualifications, and that the whole question of qualifications was left solely and entirely in the hands of the States.

I should now like to call the attention of the Senate to a few words to be found in Cooley's Constitutional Limitations, eighth edition, Carrington, volume 2. Mr. Cooley, a great and universally accepted authority on the Constitution, declared:

> The exclusive right of the several States to regulate the exercise of the elective franchise and to prescribe the qualifications of voters was never questioned, nor attempted to be interfered with, until the 15th amendment to the Constitution of the United States was forced upon unwilling communities (the States then lately in rebellion) by the military power of the General Government, and thus made a part of our organic law; a necessary sequence, perhaps, of the Civil War, but nonetheless a radical change in the established theory of our Government. (Brightly election cases, author's note, pp. 42, 43.)

He quotes the Brightly election cases, author's note, pages 42 and 43. He says, that the 14th amendment was a radical departure, a radical change in the established theory of our Government, that theory being, of course, to leave to the States the plenary power as to the qualification of electors.

Mr. Cooley continues:

> The right to vote is not of necessity connected with citizenship. The rights of the citizen are civil rights, such as liberty of person and of conscience, the right to acquire and possess property, all of which are distinguishable from the political privilege of suffrage.

Senators will notice that Mr. Cooley there departs from the use of the word "right" and uses the word "privilege"; not even conceding that there is any right to suffrage; that it is a privilege conferred by government, and under our Federal system conferred by the States.

The history of the country shows that there is no foundation in fact for the view that the right of suffrage is one of the "privileges or immunities of citizens."

> The right to vote is not vested, it is purely conventional, and may be enlarged or restricted, granted or withheld, at pleasure and without fault.

Then Mr. Cooley cites the case of *Blair* v. *Ridgely* (41 Mo. 161). He continues:

> In *Blair* v. *Ridgely* (41 Mo. 161), the question at issue arose out of the provision of article II, section 3 of the constitution of 1865 of the State of Missouri. By this section it was provided that no person should be deemed a qualified voter who had ever been in armed hostility to the United States, or to the government of the State of Missouri; that every person should, at the time of offering to vote, take an oath that he was not within the inhibition of this section, and that any person declining to take such oath should not be allowed to vote. The plaintiff, at an election held in the city of St. Louis on November 7, 1865, offered to vote, but refused to take the oath prescribed by the constitution. His vote being rejected, he brought his action against the judges of the election for damages.
>
> The case was taken to the Supreme Court of Missouri, where it was argued exhaustively, and with much learning, by eminent counsel, and the argument is to be found in full in the reports of the Supreme Court of Missouri, volume 41. It was contended by the plaintiff that the section of the constitution in question was in violation of the Constitution of the United States, being a bill of attainder and an ex post facto law within the meaning of that instrument, and, in consequence, null and void. But the court held against this contention, drawing the distinction between laws passed to punish for offenses in order to prevent their repetition and laws passed to protect the public franchises and privileges from abuse by falling into unworthy hands.
>
> The State may not pass laws in the form or with the effect of bills of attainder, ex post

facto laws, or laws impairing the obligation of contracts. It may and has full power to pass laws, restrictive and exclusive, for the preservation or promotion of the common interests as political or social emergencies may from time to time require, though in certain instances disabilities may directly flow in consequence. It should never be forgotten that the State is organized for the public weal as well as for individual purposes, and while it may not disregard the safeguards that are thrown around the citizen for his protection by the Constitution, it cannot neglect to perform and do what is for the public good.

Mr. Cooley then said:

It was argued in *Blair* v. *Ridgley* that the decision of the Supreme Court of the United States in *Cummings* v. *Missouri* (4 Wall. 277), where it was held that this section of the Missouri constitution, so far as it provided an oath to be taken by preachers, was in the nature of pains and penalties, and consequently void, was decisive of the Blair case. But the distinction between the right to practice a profession or follow a calling and the right to vote is clearly stated in the opinion of Judge Wagner, as follows:

"The decision of the Supreme Court of the United States in the Cummings case proceeds on the idea that the right to pursue a calling or profession is a natural and inalienable right and that a law precluding a person from practicing his calling or profession on account of past conduct is inflicting a penalty, and therefore void. There are certain rights which inhere in and attach to the person, and of which he cannot be deprived except by forfeiture for crime, whereof he must be first tried and convicted according to due process of law. These are termed natural or absolute rights. * * * But is the right to vote or to exercise the privilege of the elective franchise a right either natural, absolute, or vested? It is certain that in a state of nature, disconnected with government, no person has or can enjoy it.

"That the privilege of participating in the elective franchise in this free and enlightened country is an important and interesting one is most true. But we are not aware that it has ever been held or adjudged to be a vested interest in any individual.

"Suffrage in the United States not being a vested right, it results that persons who have enjoyed and exercised the privilege, and who have been qualified electors, may be entirely disfranchised and deprived of the privilege by constitutional provision, and such persons are entirely without a remedy at law (McCrary, Elections, p. 9).

"The whole subject of the regulation of elections, including the prescribing of qualifications for suffrage, is left by the National Constitution to the several States, except as it is provided by that instrument that the electors for representatives in Congress shall have the qualifications requisite for electors of the most numerous branch of the State legislature, and as the 15th amendment forbids denying to citizens the right to vote on account of race, color, or previous condition of servitude."

If Judge Cooley were writing these comments on constitutional limitations today, he would have to include the 19th amendment; but, these commentaries were written before the 19th amendment, and therefore he did not include the 19th amendment, which, as we know, is the women suffrage amendment.

Participation in the elective franchise is a privilege rather than a right, and it is granted or denied on grounds of general policy, the prevailing view being that it should be as general as possible consistent with the public safety—Cooley's Constitutional Limitations, eighth edition, Carrington, volume 2.

Madam President, I intend to show that the proposed amendment to abolish the poll tax contravenes in the words of Mr. Justice Story in *Terrett* v. *Taylor*, 9 Cranch 43, 52:

The spirit * * * of the Constitution of the United States. As we know, Mr. Chief Justice Marshall spoke of the general spirit of the Constitution. Also in the early days of our Nation, Mr. Justice Johnson spoke of the spirit, intent or meaning of the Constitution and of the true spirit of the Constitution.

I should like to call the Senate's attention to some important cases which support my contention that the proposed anti-poll-tax amendment contravenes the basic intent, meaning, and spirit of the Constitution.

In 1874, the Supreme Court upheld, in *Minor* v. *Happersett*, 88 U.S. (21 Wall.) 162 (1874), a provision in the Missouri constitution limiting suffrage to men. This had been challenged as contrary to the 14th amendment. The Supreme Court, in rejecting this contention, stated, in fact, that:

The 14th amendment did not affect the citizenship of women any more than it did of men. In this particular, therefore, the rights of Mrs. Minor do not depend upon the amendment. She has always been a citizen from her birth, and entitled to all the privileges and immunities of citizenship. The amendment prohibited by the State, of which she is a citizen, from abridging any of her privileges and immunities as a citizen of the United States; but it did not confer citizenship on her. That she had before its adoption.

If the right of suffrage is one of the necessary privileges of a citizen of the United States, then the constitution and laws of Missouri confining it to men are in violation of the Constitution of the United States, as amended, and consequently void. The direct question is, therefore, presented whether all citizens are necessarily voters.

The Constitution does not define the privileges and immunities of citizens. For that definition we must look elsewhere. In this case we need not determine what they are, but only whether suffrage is necessarily one of them.

It certainly is nowhere made so in express terms. The United States has no voters in the States of its own creation. The elective officers of the United States are all elected directly or indirectly by State voters. The Members of the House of Representatives are to be chosen by the people of the States, and the electors in each State must have the qualifications requisite for electors of the most numerous branch of the State legislature. Senators are to be chosen by the legislatures of the States, and necessarily the members of the legislature required to make the choice are elected by the voters of the State. Each State must appoint in such manner, as the legislature thereof may direct, the electors to elect the President and Vice President. The times, places, and manner of holding elections for Senators and Representatives are to be prescribed in each State by the legislature thereof; but Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators.

It is not necessary to inquire whether this power of supervision thus given to Congress is sufficient to authorize any interference with the State laws prescribing the qualifications of voters, for no such interference has ever been attempted. The power of the State in this particular is certainly supreme until Congress acts.

The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly, it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the constitution and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.

It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted. This makes it proper to inquire whether suffrage was coextensive with the citizenship of the States at the time of its adoption. If it was, then it may with force be argued that suffrage was one of the rights which belong to citizenship, and in the enjoyment of which every citizen must be protected. But if it was not, the contrary may with propriety be assumed.

When the Federal Constitution was adopted, all the States, with the exception of Rhode Island and Connecticut, had constitutions of their own.

These two continued to act under their charters from the Crown. Upon an examination of those constitutions we find that in no State were all citizens permitted to vote. Each State determined for itself who should have that power.

The next case to which I refer—and it is one of the best known cases—is that of *Ex parte Yarbrough* (110 U.S. 651), decided in 1894. The decision was handed down by Mr. Justice Miller. He said:

The States in prescribing the qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualifications for voters for those eo nomine. They [the States] define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same person shall vote for Members of Congress in that State. It—meaning, of course, the Constitution of the United States—"adopts the qualifications thus furnished as the qualifications of its own electors for Members of Congress."

There are many of these cases, and I shall not cite all of them. Let me come now to the case of *Wiley* v. *Sinkler* (179 U.S. 58), decided in 1900, so it may be called a 20th century case. In discussing the right to vote for Members of Congress, Mr. Justice Gray said:

They define—

He had been referring to the States, and he means the States—

who are to vote for the popular branch of their own legislature and the Constitution of the United States says the same persons shall vote for Members of Congress in that State.

It—

Meaning the Constitution of the United States, of course—

adopts the qualification thus furnished as the qualification of its own electors for Members of Congress.

Then in the case of *Pope* v. *Williams* (193 U.S. 621), decided in 1904, we find that Mr. Justice Peckham, in speaking for the Court, said:

The simple matter to be herein determined is whether, with reference to the exercise of the privilege of voting in Maryland, the legislature of that State had the legal right to

provide that a person coming into the State to reside should make the declaration of intent a year before he should have the right to be registered as a voter of the State.

The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States (*Minor* v. *Happersett*, 21 Wall. 162). It may not be refused on account of race, color or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution.

The State might provide that persons of foreign birth could vote without being naturalized, and, as States by Mr. Chief Justice Waite in *Minor* v. *Happersett, supra*, such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that no one but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; although it may be observed that the right to vote for a Member of Congress is not derived exclusively from the State law. See Federal Constitution, article I, section 2; *Wiley* v. *Sinkler*, 179 U.S. 58. But the elector must be one entitled to vote under the State statute. See also *Swafford* v. *Templeton*, 185 U.S. 487, 491. In this case no question arises as to the right to vote for electors of President and Vice President, and no decision is made thereon. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one. We do not wish to be understood, however, as intimating that the condition in this statute is unreasonable or in any way improper.

We are unable to see any violation of the Federal Constitution in the provision of the State statute for the declaration of the intent of a person coming into the State before he can claim the right to be registered as a voter. The statute, so far as it provides conditions precedent to the exercise of the elective franchise within the State, by persons coming therein to reside (and that is as far as it is necessary to consider it in this case), is neither an unlawful discrimination against anyone in the situation of the plaintiff in error nor does it deny to him equal protection of the laws, nor is it repugnant to any fundamental or inalienable rights of citizens of the United States, nor a violation of any implied guarantees of the Federal Constitution. The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution.

The reasons which may have impelled the State legislature to enact the statute in question were matters entirely for its consideration, and this court has no concern with them.

It is unnecessary in this case to assert that under no conceivable state of facts could a State statute in regard to voting be regarded as an infringement upon or a discrimination against the individual rights of a citizen of the United States removing into the State and excluded from voting therein by State legislation. The question might arise if an exclusion from the privilege of voting were founded upon the particular State from which the person came, excluding from that privilege, for instance, a citizen of the United States coming from Georgia and allowing it to a citizen of the United States coming from New York or any other State.

In such case an argument might be urged that, under the 14th amendment of the Federal Constitution, the citizen from Georgia was by the State statute deprived of the equal protection of the laws. Other extreme cases might be suggested. We neither assert nor deny that in the case supposed the claim would be well founded that a Federal right of a citizen of the United States was violated by such legislation, for the question does not arise herein. We do, however, hold that there is nothing in the statute in question which violates the Federal rights of the plaintiff in error by virtue of the provision for making a declaration of his intention to become a citizen before he can have the right to be registered as a voter and to vote in the State.

Then in the case of *Guinn* v. *United States* (238 U.S. 347), decided in 1915, Mr. Chief Justice White declared, in reference to the 15th amendment, as follows:

Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.

Of course, Madam President, the amendment dealt with the one subject of race, color, or previous condition of servitude.

So the Court said that all of this reservoir of rights remained in the States, except as to the one proposition covered by the 15th amendment.

It is interesting to note that Chief Justice White in his decision referred to a statement in the argument made at the time by the Solicitor General of the United States, Mr. John W. Davis. We recall that Mr. John W. Davis, while a distinguished Member of the House of Representatives, was also an outstanding member of the Judiciary Committee of the House. He was later appointed by President Woodrow Wilson to be Solicitor General of the United States. Chief Justice White embodies the statement by Mr. John W. Davis, submitted by him as Solicitor General of the United States, for the Government of the United States, in these words:

The United States—

The U.S. Government is speaking through its Solicitor General—

The United States says that State power to provide for suffrage is not disputed, although, of course, the authority of the 15th amendment and the limit on their power is insisted on—hence no assertion denying the right of a State to exert judgment and discretion in fixing the qualifications of suffrage is advanced.

If Mr. Davis were speaking today he would include the 19th amendment.

Speaking for the Government of the United States, he was saying that the Government advanced no assertion that in any way denied to the States the right to exercise their judgment and discretion in fixing the qualifications of suffrage.

Madam President, I shall refer now to the Breedlove case decided by the Supreme Court in December 1937. In *Breedlove* v. *Suttles* (302 U.S. 277), the plaintiff, a citizen of Georgia, attempted to vote in a State election and also in the Federal election held at the same time, for a Representative in Congress. He was excluded from both elections, having failed to pay the poll tax.

The case involved a Georgia tax of $1 per annum upon persons between 21 and 60 except for females who did not register and for the blind. Payment of all poll taxes, including any unpaid taxes for previous years, was a prerequisite to registration for voting. Aliens could not vote but were subject to the tax. The validity of the tax was challenged by a white male citizen. The Supreme Court, in holding the law valid, called attention to the difference between the classes of persons liable for the tax, and those qualified to vote. The Court stated that the requirement of payment before registration undoubtedly serves to aid collection from the electors desiring to vote. It also pointed out that the payment of poll taxes as a prerequisite to voting is a familiar and reasonable regulation long enforced in many States.

Mr. Justice Butler rendered the unanimous decision of the Court and said:

Levy by the poll has long been a familiar form of taxation, much used in some countries and to a considerable extent here, at first in the Colonies and later in the States. To prevent burdens deemed grievous and oppressive, the constitutions of some States prohibit or limit poll taxes. That of Georgia prevents more than a dollar a year. Poll taxes are laid upon persons without regard to their occupations or property to raise money for the support of government or some more specific end. The equal protection clause does not require absolute equality. While possible by statutory declaration to levy a poll tax upon every inhabitant of whatsoever sex, age, or condition, collection for all would be impossible for always there are many too poor to pay. Attempt equally to enforce such a measure would justify condemnation of the tax as harsh and unjust. Collection from minors would be to put the burden upon their fathers or others upon whom they depend for support. It is not unreasonable to exclude them from the class taxed.

Payment as a prerequisite is not required for the purpose of denying or abridging the privilege of voting. It does not limit the tax to electors; aliens are not there permitted to vote, but the tax is laid upon them, if within the defined class. It is not laid upon persons 60 or more years old, whether electors or not. Exaction of payment before registration undoubtedly serves to aid collection from electors desiring to vote, but that use of the State's power is not prevented by the Federal Constitution.

Madam President, to make payment of poll taxes a prerequisite of voting is

not to deny any privilege or immunity protected by the 14th amendment. Privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the 15th and 19th amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate. The privileges and immunities protected are only those that arise from the Constitution and laws of the United States and not those that spring from other sources.

Approximately 2 years after the Breedlove decision came the Pirtle case, which arose in the State of Tennessee out of an election held in that State on the 13th day of September 1939 for a Member of Congress. There was no State election at all, as I recall; it was a special election for a Member of Congress. The plaintiff in that case was fully qualified, except for one thing: He had not paid his poll tax. He came to the polls, although he had not paid his poll tax, and demanded the right to vote, but was excluded by the election officers and denied the right to vote on the ground of such nonpayment. He brought suit in the Federal court. The suit finally went to the Circuit Court of Appeals of the Sixth Circuit, in which judgment against the plaintiff was rendered in a unanimous decision of the three judges, affirming the judgment against the plaintiff as rendered by the lower court. The opinion of the court of appeals follows the opinion of Justice Butler in the Breedlove case to which I have referred.

When the Circuit Court of Appeals for the Sixth Circuit rendered a decision against the plaintiff in the Pirtle case the plaintiff asked for a writ of certiorari from the Supreme Court of the United States. That Court, without any opinion—it did not even dignify the petition for a writ of certiorari by an opinion or by a statement of any kind—forthwith proceeded to deny the petition for the writ of certiorari, which, of course, confirmed the decision of the circuit court and the decision of the lower court.

The question of the Virginia poll tax as a prerequisite to voting was reviewed by a special three-judge court as recently as 1951 in *Butler* v. *Thompson* (341 U.S. 937), Circuit Judge Dobey, speaking for the three-judge court, quoted from *Saunders* v. *Wilkins* (152 F. 2d 235, 237), as follows:

> The decisions generally hold that a State statute which imposes a reasonable poll tax as a reasonable condition to the right to vote does not abridge the privileges or immunities of citizens of the United States which are protected by the 14th amendment. The privilege of voting is derived from the State and not from the National Government. The qualification of voters in an election for Members of Congress is set out in article I, section 2, clause 1, of the Federal Constitution which provides that the electors in each State shall have the qualifications requisite for electors for the most numerous branch of the State legislature.

Madam President, the power to prescribe the qualifications of electors was left to the States by the Founding Fathers for sound reasons—for sound reasons that were uppermost in their minds at the Constitutional Convention. I have attempted to review, in my remarks today, the thoroughness, the precision, and the meticulous care with which the Founding Fathers made it absolutely clear that this power to qualify electors, which goes to the very heart of our Federal system, was reserved exclusively to the States. At the same time, I have attempted to show that the impelling case for the preservation and continuation of this power in the States is just as valid today as it was in that great Convention in Philadelphia in 1787, and as it was in the conventions held in the various States for ratifying the Constitution.

I oppose the proposal before the Senate because it would be an impairment of this power which is the cornerstone and foundation of our whole system of government. In fact, the Constitution has been the word of life to our dual system of government. It has been the buffer and the shield for the protection of the liberties of our people and for the rights of our States.

Let us preserve the great work of the Constitutional Convention that we may preserve the rights of the States of the United States and the liberties of the people of the United States. Let us defeat this poll tax amendment and continue that which was guaranteed to the people and to the States 172 years ago by the Constitution of the United States.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MUSKIE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLIANCE FOR PROGRESS

Mrs. SMITH of Maine. Madam President, it seems that it is human nature for us as individuals too often to wait until trouble develops before we take action on a matter that we should have long ago acted upon. We put off until tomorrow what we should do today.

Instead of acting to prevent trouble—we wait until the trouble develops and then we try to repair. We are not preventive minded—at least not preventive minded enough.

We are that way about the most precious thing to us individually—our own health. We fail to take regular physical examinations. We wait until after the damage has been done—and after we become ill.

And what we have done individually, we have been inclined to do as a nation—not only on our domestic problems—but on our international problems as well.

We need only look at the history of our foreign policy during the 20th century. It is true that we have shifted from isolationism to internationalism—but not of our own free will—not because we looked ahead to see the inevitability of internationalism.

We made that shift only after the damage had been done—only after world wars had broken out and we had to get involved and fight lest our country be enslaved by aggressive would-be world conquerors.

After we won World War II, we turned our eyes to Western Europe with the Marshall plan to keep the Communists from taking over Western Europe. We succeeded—so tremendous was our success that we so rebuilt Western Europe economically that now she is threatening our own economic security with keen competition.

But as we turned our eyes on Western Europe in such concentrated effort and aid, we turned our back on other areas of great potential danger to us—and we kept our back turned until international fires broke out in these areas.

First there was the Orient. But by the time we turned around to look at it, China had been lost to the Communists—and in the long run, Red China will be the greatest threat to the peace of the world and to our security—far greater than Red Russia. In fact, Red China has become a threat to Red Russia.

But we did look around in time to save half of Korea from being taken over by the Communists by taking the very costly, but necessary, stand that we did to defend South Korea and stop the Reds. In doing so, we probably saved the Philippines, Japan, and other areas of the Orient from being taken over by the Communists.

In this process of looking first exclusively to Western Europe and next to the Orient, we turned our back on our own hemispheric neighbors to the south. We turned our back on South America.

And it took the tragedy of Castro in Cuba—it took a Communist takeover just 90 miles from our shores—it took a Communist beachhead only minutes by air away from us—it took a newly established Communist nation on our threshold—to force us finally to really turn our eyes southward in our own hemisphere.

But by that time, the damage had been done. And make no mistake about it, our position throughout Latin America has been undermined by Castro's Communist control of Cuba.

I do not want to gratuitously cast myself in the role of a "I told you so" hindsight expert in these observations that I make. But on the other hand, I do think that I have a right to point out that this is not merely hindsight observation on my part.

It is not hindsight because for many years now I have been voicing such warnings about South America—and about our turning our back on South America as we looked to other areas of the world.

My warnings have been very specifically recorded in newspapers throughout the United States repeatedly. I warned against our taking for granted our fellow Americans in the southern part of the Western Hemisphere.

I did so on the pages of newspapers throughout the United States in 1950—again in 1952—and again in 1954—when I was writing a daily nationally syndicated column.

But even then I did not realize myself the depth and extent of the great danger to us from the Communists in South America. I did not, for the very simple reason that I had never been to South America. I knew only from reports that I had received in my senatorial committee work.

Now I know much more—and am in a position to know much more. It is my good fortune to have become the top Republican on the Senate Appropriations Subcommittee on Foreign Relations.

This past fall that subcommittee made a 3-week trip in South America, and in that trip I gained extremely valuable, firsthand information that I could not have gained otherwise.

For example, I talked with some of the common people—the men and women in the streets of South America. I got from them directly—from their own lips—information that I could never have obtained by staying in Washington sitting at hearings and receiving only State Department testimony.

The focal point of our trip in South America was the so-called Alliance for Progress program that was started under President Eisenhower and is now being continued with even greater emphasis by President Kennedy.

We inquired especially into what plans had been put into effect—into how the program was being received by South America—and to what extent the South American countries intended to cooperate and do their part on the self-help, mutual program.

What we found was not encouraging. What we found was disturbing. What we found was real danger to the United States, both immediate and long-range danger.

What we found was a deeply ingrained cynicism and growing lack of respect for the United States. We found real and deep trouble—which the Alliance for Progress alone cannot solve and cannot stem.

South America has acute and complex problems of housing and disease, of poverty and unemployment, of illiteracy and emotionalism—all of which are tailor made for exploitation by the Communists. And make no mistake about it—they are exploiting to the hilt.

What must be realized by the people of South America is that the Alliance for Progress is, at best, a venture of true partnership—that the United States cannot do all of the job—or even a major part of it.

Yet, from what I saw there is no real recognition of this in South America. To the contrary, to too great a degree the Alliance for Progress is viewed by South Americans as an attempt by a rich, flabby, and timid Uncle Sam to try to buy that which he is not willing to fight for himself.

Make no mistake about it, that is a result of the rampant expansion of Castroism that we have never really faced up to. The odds are that we waited too late—for South Americans are inclined to view our efforts now as a desperate attempt to get them to save us from the threat of Castroism—that we were not concerned about them until we thought they could serve our purposes.

Communism and Castroism have made their greatest inroads into the schools and the universities in South America. They seem to thrive among the intelligentsia.

Why? Perhaps it is because of such obviously needed economic and social reforms in South America that is obvious to the intelligentsia, which is composed of the "outs" and the "ins."

The students and the professors are the intelligentsia leaders of the "outs," who advocate revolution. The intelligentsia "ins" are the landed aristocracies that presently have relatively economic strangleholds over the countries and who fiercely strive for preservation of the status quo.

Where do we stand between these clashing two extreme groups as far as our proposed Alliance for Progress is concerned? In the middle, as you would expect. But the middle is the most difficult position to maintain.

We recognize that economic and social change must come if the basic problems of South America are to be met. This attitude on our part immediately antagonizes the landed aristocracy that is the ruling power in many South American countries.

But we feel that such economic and social change should come by evolution—by the more orderly method of change—rather than by the disorderly, the violent, and the overnight method of revolution.

The danger of Communist takeover of South America—the danger of successful Communist revolution in South America—the danger of Castro ultimately becoming the dictator of all South America—is in direct ratio to the degree of resistance on the part of existing ruling powers in South America to change.

For the greater the resistance to change, the greater the pressures build and the greater the choice becomes restricted to either no change at all or revolutionary, violent and bloody change. The greater the resistance to change, the less chance for change by evolution instead of change by revolution.

But the change is coming, make no mistake about that. It is inevitable. It has already started. It started the wrong way in Cuba with Castro and greatly because of Batista's dictatorial opposition to change.

The tides for evolutionary change are ebbing and running out. The tides for revolutionary change are rising. Our Alliance for Progress is aimed to vitalize the forces for evolutionary change and to stem the violent forces of revolution.

There is question in my own mind that there is enough time left for the Alliance for Progress program to stem the tide against us. Of one thing I am sure, unless we are more specific, unless we are more firm and resolute in our administration of the Alliance for Progress program, it will not only fail, but it will worsen the situation.

By specific, firm, and resolute, I mean that we have to do certain things. First, we must make it unmistakably clear to the South Americans that we will carry only a portion of the load; that this is not to be a WPA program for South America paid for solely by Uncle Sam.

Second, we must make it crystal clear that our aim is to help the people, the little people, of South America to help themselves and to improve their way of life; that we are not interested in helping just the people that rule them to perpetuate that rule.

We must make crystal clear that such aid does come from us, is from the United States, instead of being from the South American rulers. An example of this is the case of the wheat that we have sent to South America for flour for the needy.

Instead of the wheat that we give being clearly labeled as from the United States, it is mixed as flour with some inferior South American flour by the regime governing the country and put in bags indicating that all the flour comes from their South American rulers rather than from the United States. Not only do we not get credit from the little people themselves, but they get some inferior flour mixed with what we have sent down.

We need to be specific by saying that we will help finance some specific projects like the piping of water into a town, rather than committing ourselves to a grandiose and vague general program. We need to be specific and firm by stating that we will not put up any financing for a specific project until the South American country to be aided has put up the matching financing.

We need to have all our efforts channeled through one office in each country, through the embassy, rather than having several agencies operating independently of each other with the right hand not knowing what the left hand is doing.

We are fortunate in having some ambassadors in South America who are fully experienced and who have been tempered by the rough and tough day-to-day diplomatic dealings through many years. They have a realism and depth that can be gained only in this way, and for which the quiet and comfortable years of theory in cloistered halls of learning cannot be an adequate substitute for coping with the hard and ruthless realism of aggressive communism.

But we are woefully weak in some of our embassies for lack of this experience and realism. It is not because they are not trying. It is rather because they just do not know how because they just do not have the training, the experience, or the temperament for dealing with the unpleasant specter of unrelenting communism. Nor do they have the sense of urgency in coping with it—simply because they have not had to cope with it prior to their recent and sudden entry into the field of diplomacy.

They will have to get burned before they will learn and before they will develop that necessary sense of urgency and that necessary firmness based upon experience. And we just simply do not have enough time left in South America for such on-the-job training.

South America requires our most experienced and our best trained and

proved career diplomats. To the extent that it is not getting them, our efforts—whether they be the Alliance for Progress or something else—will be weakened and compromised not by design but rather by diplomatic immaturity.

A very small—but somewhat significant—personal experience of mine illustrates how our diplomatic corps fails in some important respects to make the most of our opportunities for greater ties with South America.

In Chile I was asked to make the presentation of nine ambulances given by the American people through CARE to the people of Chile. I gladly agreed. I prepared a short statement and asked that it be translated into Spanish with phonetic spelling so that my pronunciation would be correct and thus please the Chilean people more.

With considerable reluctance the U.S. Information Service officer had the translation made but he refused to have the spelling done phonetically—and he even expressed strong opposition to my speaking in Spanish at all. Well, my assistant stepped in and made a stab at phonetically spelling the last paragraph of my statement.

Consequently, I said only the last paragraph of my statement in Spanish—all the rest in English. Yet, later reports after we had left Chile were to the effect that my speaking at least one paragraph in Spanish made the greatest impression on the people of Chile of all that the subcommittee did in Chile while we were there.

Fortunately, this lack of realism and lack of cooperation on the part of the U.S. Information Service officer in Chile was in the minority. For in Peru at the request of the embassy I met with Peruvian women leaders—as I did in Argentina—and in Brazil I spoke at a school.

Some respected Members of the U.S. Senate frown upon our having any military ties with South American countries. They would have us stop all of our military assistance to South American countries.

With this I am in basic disagreement. I am because, in my opinion, the greatest friends that the United States has in South America are the members of the military forces—and the greatest enemies of communism are the members of the military forces.

It is unanimously acknowledged that in most of the South American countries, the greatest factors for political stability of each country and for opposition to communism are the military forces even though they refrain from political activity.

I think that we might bear this in mind when we look at the six South American countries, which refused to stand on our side against Castro and Communist Cuba at Punta Del Este—and compare them with certain countries that did stand with us against Castro and Communist Cuba.

From 1946 to June 30, 1961, the six South American countries that we visited last fall received substantial aid from the United States. I am not including Panama because it is a country with such close ties to us because of the Panama Canal.

Those six countries were Mexico, Chile, Argentina, Brazil, Peru, and Venezuela. Of these six, Mexico, Chile, Argentina, and Brazil all refused to stand with us against Castro and Communist Cuba. Of these six, only Peru and Venezuela stood by our side.

Yet, we had given over $600 million in aid to Mexico—over $500 million to Chile—nearly $550 million to Argentina—and $1,700 million to Brazil.

Yes; the very country that we have given the most to—is the very country that is potentially, at least, if not in fact, the most unfriendly country to us in South America—Brazil, which shows the greatest tendency to go Communist and to the side of Castro and Russia.

Now the very interesting aspect of this aid that we have given in the past to these four South American countries that stood against us at Punta del Este is that practically all of that aid was economic assistance and very, very little was in the form of military assistance.

Of the aid to Mexico, less than 1 percent of it was military assistance. Of the aid to Chile, less than 10 percent of it was military assistance. Of the aid to Argentina, less than 3 percent of it was military assistance. Of the aid to Brazil, only 10 percent of it was military assistance.

Now how do these percentages compare with the South American countries we visited and which had received our aid in the past and which did stand by our side at Punta del Este against Castro and Communist Cuba?

Well, of the aid received by Venezuela from us, more than 40 percent of such aid—nearly half—was in military assistance. Of the aid we gave Peru, more than 17 percent was in military assistance.

From these comparisons, it is quite clear that the nations to whom we gave the higher percentage of military assistance in our overall assistance, were the very nations that stood by us when the chips were down at Punta del Este and that the nations to whom we gave so very little percentagewise in military assistance were the very nations that deserted us when the chips were down at Punta del Este.

In view of this, I say that we should give more military assistance to South American countries instead of less as is being advocated by some. For from these figures, it appears that the less military assistance we give and the more nonmilitary assistance we give, the more a South American country has a tendency to turn its back on us.

Let us compare the South American country that has been against us the most with the South American country that probably has stood on our side more than any other South America country—Brazil versus Venezuela.

We have given Brazil more than 16 times as much overall assistance as we have given Venezuela. On top of that, we have slapped Venezuela in the face with the restrictions we have placed on Venezuelan oil imports. Yet Brazil is the South American nation most unfriendly to us—and Venezuela is the South American nation that has stood loyally by our side.

Of the six South American nations that we visited last fall and which have received aid from us, all of the four that stood against us at Punta del Este have received substantially more aid from us than the two that stood by our side—Venezuela and Peru.

We have gained one country—Argentina—since that conference. But again it has been the military that gave us that gain when military leaders forced the Government to withdraw recognition of Castro.

This simply does not make sense. Why should we give more aid to those who stand against us—than we do to those who stand with us? Under such a pattern, do we not encourage South American countries to stand against us with the prospects that they can get more out of us that way than by supporting us?

But this is not a new pattern. We have seen it before in the comparisons between what we do for Communist Yugoslavia as compared to what we do for anti-Communist Spain.

Yes; our greatest danger today is not in Berlin, Vietnam, Laos, or the Congo. Instead it is right here on our very doorstep with our neighbors to the south. And, as I have pointed out, our hemispheric trouble is largely of our own making. We have literally accommodated our Communist enemies by our timid and stupid policies.

Trouble in South America—Latin America—has been building up for us for years. However, the greatest trouble in Latin America did not explode for us until last year in 1961. It was our dismal failure on the halfhearted, timid, straddling attempted invasion of Cuba to overthrow Communist Dictator Castro. And the key to the failure of that ill-fated invasion was the calling off of the indispensable air support to the landing forces.

This is the core—this is the heart—of our trouble in Latin America. All too tragically it is the base around which Khrushchev and Castro and their Communist aggressors make such effective psychological gains against us with Latin Americans.

About this there is no doubt in my mind after talking with the people of Mexico, Peru, Chile, Argentina, Brazil, and Venezuela. In talking with them, I asked them what was the one thing they held most against the United States. And without exception, they replied that it was our failure to have the courage to slap down Castro with his Communist beachhead just 90 miles from our shores.

My response to them on this was that many of the leaders of our administration took a view, which was apparently the prevailing view and the accepted policy in view of the call-off of the air cover for the landing forces, that should the United States have made an all-out invasion and thrown Castro out, our country would have alienated all of the Latin American countries as those countries would have condemned such action.

Their reaction to this argument was again strikingly unanimous. It was simple but it was pointed and direct. They acknowledged that they probably would have voiced some criticism—but they cautioned that as far as Latin Americans were concerned, respect was far more important than friendship. I think they are right—and I do not think that they are basically different from the people of any area of the world.

For, in my opinion, friendship follows respect—rather than respect following friendship. If we are ever to have stronger ties with Latin America and stem the Communist tide in that area of the world, the first thing that we will have to do is to reestablish respect and confidence. Friendship will come later.

We cannot buy the respect, the confidence and the friendship of Latin America and her people with money and economic aid—whether it be in the form of the Alliance for Progress or any other economic form. To the contrary, the danger is far greater that such financial aid or bait will only invite contempt and interpretation that we are weak. It involves the great risk of creating resentment on the part of the very proud Latin American people that their good will and independence is so shallow that it can be bought by us.

For after our shockingly supine and humiliating record on the halfhearted, timid invasion of Cuba, the Latin Americans made one telling observation to me again and again and again. They said, "If you will tolerate a Communist Castro-controlled Cuba just 90 miles from your shore—if you do not have the will, the courage and the determination to resist that close to your own country, then why do you think that we have any real confidence that the United States would come to our defense hundreds and thousands of miles further distant from your shores if the Communists invaded?"

They went on to say that while they welcomed our aid and our newly generated interest, their confidence and respect for us had been shattered on our record on Cuba. They put it bluntly when they said that while they liked us better than Castro, they had greater respect for Castro because we had let him give us an ignominious licking when we did not have to. That he showed that he would stand up and fight—when we would not.

The motives of the Alliance for Progress are most admirable—and I deeply wish success for the program. But let us be realistic; it is not going to win Latin America firmly to our side—any more than the beneficent tumultuous Presidential good-will trips to Latin America—by itself.

In fact, it is not going to be even moderately successful or have any long-lasting hemispheric security effect until we first reestablish respect for our Nation with Latin America—unless we rebuild an image of will and determination.

The damage of the Cuban fiasco will last for generations because it has tarnished our hemispheric and international image almost beyond repair. This was the one overpowering impression of my visit to Latin America—matched only by the inescapable conclusion that the key to reparation of this frightful damage is the desperately needed rebuilding of respect.

Mr. AIKEN. Madam President, will the Senator yield?

Mrs. SMITH of Maine. I yield.

Mr. AIKEN. The Senator from Maine has delivered another of her great speeches. It is a speech which should be and I believe will be read and heeded by the people, and particularly the officials of North America and South America.

The Senator from Maine is completely right when she says that much of the unsavory conditions which exist in Latin American countries today are our fault, or at least we must bear part of the blame for the conditions which exist. For too long we have failed to recognize or we have refused to recognize the important position of Latin America in the world. We have chosen to gloss over and pretend not to see the conditions which prevail among the people of Latin America, and we have also failed to appreciate the concert of interest between our country and the countries which lie to the south of us. We must learn that problems cannot be solved by glossing over the facts or in refusing to see conditions as they exist.

I know that not everyone will like the speech which the Senator from Maine has just delivered. She never makes a speech unless she has a purpose. There are always those who disagree with that purpose. But she has performed a service even for the people who will disagree with what she has said. I wish to congratulate her on having the courage to say something which probably should have been said some time ago. We are very fortunate that the Senator from Maine is a Member of this body, because sometimes she speaks out when the rest of us remain silent. Again I congratulate her.

Mrs. SMITH of Maine. Madam President, the distinguished senior Senator from Vermont has paid the senior Senator from Maine one of the greatest compliments that has been paid to her during her career in the Senate. As a member of the Committee on Foreign Relations and the Committee on Agriculture and Forestry, the senior Senator from Vermont is a great authority on South American affairs. I thank him from the bottom of my heart for his kind words.

Mr. MUSKIE. Madam President, will the Senator yield?

Mrs. SMITH of Maine. I am very glad to yield to my distinguished colleague.

Mr. MUSKIE. I have listened with great interest to the statement made this morning by my senior colleague. One does not have to agree with all of her conclusions to agree that her observations are pointed, timely, and are an important contribution to the discussion of our problems in Latin America and to our understanding of their complexity and difficulty. I particularly liked the thoughtful, clear-cut, and appropriate specific suggestions with respect to what we must do.

Mrs. SMITH of Maine. Madam President, I greatly appreciate the words of my distinguished junior colleague from the State of Maine. I think that one of the greatest needs in public office is to learn how to disagree agreeably, and certainly the junior Senator from Maine has spoken very kindly with respect to my remarks.

Mr. MUSKIE. Madam President, will the Senator yield further?

Mrs. SMITH of Maine. I yield.

Mr. MUSKIE. I would like to say that I may not necessarily disagree with all the conclusions of my senior colleague. I look forward to the opportunity of evaluating her observations more carefully before I reach a final conclusion. I did not mean to suggest by my previous comments an arbitrary disagreement with what she said.

Mrs. SMITH of Maine. My colleague is very kind to tell me how he feels about my presentation. I was trying to indicate that we sit on opposite sides of the aisle. He has the ability of appearing sometimes to disagree, but doing so very agreeably.

Mr. STENNIS. Madam President, will the Senator yield?

Mrs. SMITH of Maine. I am glad to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Although I did not hear all of the speech of the Senator from Maine because of divided duties today, I heard enough of it to know that it has great merit. I would know that what she has said is the fact anyway, because of her great contributions in the Senate in the past. I know her earnest, thorough, and fine analysis and approach to all of such problems. I was particularly interested in her evaluation of the problems of the South American people and her constructive suggestions.

I have the privilege of being a member of the Subcommittee on Appropriations of which the Senator from Maine is also a member. I thought I had about completed my preparations to make the same survey the Senator from Maine made. At the last moment I discovered that I had to remain here with reference to other assignments that we have together. Therefore I have been looking forward for a long while to her report. I know that it will be of great value to all of us in the Senate and to the people of the Nation. I thank her very much for her fine contribution.

Mrs. SMITH of Maine. Madam President, I wish to thank the distinguished Senator from Mississippi, with whom I am privileged to serve on the many committees of which we are both members. He has had much to do with my interest and effort as a member of the Committee on Armed Services, as well as the Committee on Foreign Relations. It was with great regret that I learned that the Senator from Mississippi decided not to accompany us on the trip. He would have added much to our survey.

Mr. DWORSHAK. Madam President, will the Senator yield?

Mrs. SMITH of Maine. I am glad to yield to the Senator from Idaho.

Mr. DWORSHAK. I heard most of the Senator's keen, analytical comments

on the trip which was made last fall to South American countries. I was one of the six Senators in that group. I had my first experience in visiting Latin America. I was amazed, as was the Senator from Maine, to learn that while most of the people were sympathetic and felt kindly toward the United States, especially the people of the United States, those in charge of the government too frequently reflected some hostility. I know that the Senator agreed with the other members of the group that that was the very exceptional aspect of the trip, and that the three minority members and the three majority members were in almost complete agreement on the conclusions that were reached.

I wish to commend the Senator from Maine for her efforts to do everything possible to make the Alliance for Progress program successful. I share her apprehension and her fear that while the United States may be willing to make available the billions of dollars it is making available to implement the financial aspects of this program, there is a total lack of awareness that the program will fail unless we insist upon wholehearted cooperation on the part of the beneficiary nations. By that I mean that I do not believe the President in his recent statement concerning foreign aid is justified in taking the position—although I am sure he does it in the hope that the program will be successful without the cooperation of the beneficiary countries—that we should make these billions of dollars available without their cooperation, but that the program will not prove worthwhile in any way unless we do have full compliance by the Latin American countries in making the tax reforms and the land reforms which are a basic part of the overall concept of strengthening these countries, so that they can resist effectively the Communist aggression. Does the Senator from Maine agree with me in that conclusion?

Mrs. SMITH of Maine. I agree completely. I thank the Senator from Idaho, with whom I have had the privilege of serving on the Appropriations Committee, and with whom I had the privilege of serving for a number of years in the House of Representatives. I appreciate what he has said, because ours was a very hard working committee. We held long hearings. To have the Senator from Idaho say what he has said makes me feel doubly sure that I was right in the interpretations of the effort that was put into it. I thank him very much.

Mr. MUSKIE. Madam President, will the Senator yield?

Mrs. SMITH of Maine. I yield to my colleague from Maine.

Mr. MUSKIE. On the point which the distinguished Senator from Idaho has made, I should like to ask my senior colleague what would be the reaction in the South American countries with respect to the kind of firm policy which she has outlined, and to which I subscribe; namely, the insistence upon internal reforms which are so necessary.

Mrs. SMITH of Maine. I believe the people need to be told about it. The people in South America are like our own people. They are proud. I am speaking about the mass of people. There are exceptions, of course. However, the people of South America are proud. They are anxious to get ahead. They want to do their part in the present great world conflict. However, they have not been told sufficiently to know that they must meet the requirements before they can go into the Alliance for Progress program. That is a matter that they must understand. They certainly must have a full understanding of that point. The committee which toook the trip—and I would like the Senator from Idaho to express himself on this point—had a great deal to do with having the people, with whom we met, understand better what the purpose of the Alliance for Progress was, and the plan under which it could operate.

What they need more than what is being done is many small projects, projects which could be effective in giving them a better standard of living and a better chance to carry on for themselves. They are a proud people, and they want the facts to be told to them.

Mr. MUSKIE. Madam President, in referring to the need for understanding on their part, is the Senator from Maine referring to their government and their leaders, or to the grassroots citizens?

Mrs. SMITH of Maine. The grassroots citizens must understand what is required. Their leaders could well have a better understanding of it. The leaders must be realistic, of course, I may say.

Mr. MUSKIE. Is it the desire of the South American governments and of the leaders of those countries that the grassroots citizens do understand these requirements for reform?

Mrs. SMITH of Maine. That is a question that would have to be answered by the leaders of the South American countries. The Senator from Maine would not want to interpret their feelings.

Mr. MUSKIE. Would the Senator say that this is a key point in the program in South America, as to whether or not we can get the cooperation of these governments and the leaders of these countries in spreading the message of our requirements to the grassroots citizens of the countries?

Mrs. SMITH of Maine. Yes, I think it is. The junior Senator from Maine has brought up a very vital point. The leaders of the South American countries must understand that this is a program to help improve the standards of living of the masses of their people, and to give them a chance to contribute in the field of world affairs, as they have a right to do.

Mr. MUSKIE. Would the Senator say that we ought to be making an effort ourselves, or perhaps a more effective effort ourselves, in communicating this message, perhaps by bypassing the government leaders, in a sense, to the rank and file people of South America?

Mrs. SMITH of Maine. I would not want to attempt at this time to go into the details of how to bring this about. I would be very glad, when there is an opportunity, to do so. I have some very specific ideas on the subject. I believe that the embassies in the various countries could do a great deal, as I said in my remarks, if all ambassadors were career people, and had been seasoned, and understood what it takes to do the job well.

Mr. MUSKIE. I thank my colleague.

Mr. DWORSHAK. Madam President, will the Senator yield?

Mrs. SMITH of Maine. I yield.

Mr. DWORSHAK. I am in thorough accord with the Senator's comment that it will take exceptional efforts on the part of the representatives of our Government to make the people of the South American countries fully aware of our long-term objectives. I am sure the Senator will recall that in the various conferences we held with representatives of the U.S. Information Agency, the Agency for International Development, and the representatives of the various embassies in the countries we visited, it was apparent that there was an appalling lack of understanding of any of the objectives of the Alliance for Progress program. By that I mean that for too many years there has been a softness displayed by our representatives in the various countries, on the basis that that would be conducive to building up a more friendly relationship between the United States and those countries, while actually the only way this program can succeed is by having the kind of representation on the part of the agencies which administer these various programs in an effort to impress upon the beneficiary countries that only through their self-help efforts can there be the required response and cooperation upon which the entire program rests. Does the Senator from Maine agree with me on that?

Mrs. SMITH of Maine. I agree completely. I appreciate the Senator's contribution to the discussion.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METCALF in the chair). The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ALEXANDER HAMILTON NATIONAL MONUMENT — AMENDMENT TO THE CONSTITUTION DEALING WITH POLL TAXES

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] to proceed to the consideration of the joint resolution (S.J. Res. 29) providing for the establishing of the former dwelling house of Alexander Hamilton as a national monument.

Mr. ROBERTSON. Mr. President, in the news column of my hometown paper, the Lexington Gazette of March 24, 1837, there appears this item:

THE GLOBE SAYS

When General Jackson came from the Hermitage to the Presidency he took an outfit from his private means of $5,000. This

he expended, and lost an additional amount by his 8 years' absence from his estate in Tennessee, and the burning of his house and furniture. On squaring his accounts in Washington, he had scarcely as much money left of his 8 years salary as would pay his expense to Tennessee.

Most of us concerned about deficits in our Federal budget and increases in our national debt know that Andrew Jackson, as President of the United States, balanced the budget and also paid off the national debt in its entirety. Yet not many Members of the Congress may be aware that Andrew Jackson, after spending 8 years in the White House and after investing $5,000 of his own funds at a time when the dollar was worth many times more than it is today, had scarcely enough money left to pay his expenses in order to travel back home.

Thanks to men like Andrew Jackson who believed in both personal and political frugality, our experiment in representative democracy was able to work. Unfortunately, others have repudiated the traditions of our Founding Fathers, and especially the principles of States' rights and Government economy by Thomas Jefferson and Andrew Jackson, and they are building up public debts that could eventually wreck our Government.

Nearly $300 billion of our public debt is now outstanding. But that liability is only a small part of what the Government owes. We have contingent liabilities of many more billions of dollars for Federal guarantees and insurance as well as for such items as insured bank deposits, commitments to veterans for future compensation and pensions under present programs, and unfunded contract authorizations.

Mr. President, according to the Treasury Department, over $361 billion was outstanding in mid-1961 in certain long-range commitments and contingencies of the U.S. Government. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a release prepared by the Treasury Department on this subject.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

LONG-RANGE COMMITMENTS AND CONTINGENCIES OF THE U.S. GOVERNMENT AS OF JUNE 30, 1961

The attached statement covers the major financial commitments of the U.S. Government, except the public debt outstanding and those involving recurring costs for which funds are regularly appropriated by the Congress and are not yet obligated, such as aid to States for welfare programs and participation in employee-retirement systems. The statement is segregated into four categories; namely (a) loans guaranteed and insured, etc., by Government agencies; (b) insurance in force; (c) obligations issued on credit of the United States; and (d) undisbursed commitments, etc.

The items appearing in this statement are quite different from the direct debt of the United States. They are programs of a long-range nature that may or may not commit the Government to expend funds at a future time. The extent to which the Government may be called upon to meet these commitments varies widely. The liability of the Government and the ultimate disbursements to be made are of a contingent nature and are dependent upon a variety of factors, including the nature of and value of the assets held as a reserve against the commitments, the trend of prices and employment, and other economic factors.

Caution should be exercised in any attempt to combine the amounts in the statement with the public debt outstanding for that would involve not only duplication but would be combining things which are quite dissimilar. As indicated by the enclosed statement, there are $109.3 billion of public debt securities held by Government and other agencies as part of the assets that would be available to meet future losses. The following examples illustrate the need for extreme caution in using data on the contingencies and other commitments of the U.S. Government.

1. The Federal Deposit Insurance Corporation had insurance outstanding as of June 30, 1961, estimated to be $152.8 billion. The experience of the Federal Deposit Insurance Corporation has been most favorable. During the period this Corporation has been in existence, premiums and other income have substantially exceeded losses which has permitted the retirement of Treasury and Federal Reserve capital amounting to $289.3 million (all repaid to Treasury), and the accumulation of $2.3 billion reserve as of June 30, 1961. The Corporation's holdings of public debt securities as of that date amounted to $2.4 billion which already appears in the public debt total. Out of $288.7 billion of assets in insured banks as of June 30, 1961, $66.1 billion are in public debt securities (also reflected in the public debt). The assets, both of insured banks and the Federal Deposit Insurance Corporation, as well as the continued income of the Corporation from assessments and other sources, stand between insured deposits and the Government's obligation to redeem them.

2. The face value of life insurance policies issued to veterans and in force as of June 30, 1961, amounted to $41.7 billion. This does not represent the Government's potential liabilities under these programs since some of these policies will probably be permitted to lapse and future premiums, interest, and the invested reserves amounting to $6.9 billion of public debt securities should cover the normal mortality risk.

3. Under the Federal Reserve Act of 1913, as amended, Federal Reserve notes are obligations of the United States which, as of June 30, 1961, amounted to $26.7 billion. The full faith and credit of the United States is behind the Federal Reserve currency. These notes are a first lien against the $49.3 billion of assets of the issuing Federal Reserve banks which includes $27.3 billion of Government securities already included in the public debt. These notes are specifically secured by collateral deposited with the Federal Reserve agents which, as of June 30, 1961, amounted to $21.2 billion in Government securities and $9 billion in gold certificates.

Long-range commitments and contingencies of the U.S. Government as of June 30, 1961

[In millions of dollars]

Commitment or contingency and agency	Gross amount of commitment or contingency	Public debt securities held by Government and other agencies
Loans guaranteed, insured, etc., by Government agencies:		
Agriculture Department:		
Commodity Credit Corporation	(1)	----------
Farmers' Home Administration:		
Farm tenant mortgage insurance fund	182	----------
Civil Aeronautics Board	25	----------
Commerce Department:		
Federal Maritime Board and Maritime Administration:		
Federal ship mortgage insurance revolving fund	[2] 355	----------
Development Loan Fund	1	----------
Export-Import Bank of Washington	(3)	----------
Housing and Home Finance Agency:		
Federal Housing Administration:		
Property improvement loans	[4] 418	104
Mortgage loans	34,116	653
Office of the Administrator:		
Urban renewal fund	713	----------
Public Housing Administration:		
Local housing authority bonds and notes (commitments covered by annual contributions)	2,925	----------
Local housing authority temporary notes (guaranteed)	813	----------
Interstate Commerce Commission	126	----------
Small Business Administration:		
Revolving fund	[5] 22	----------
Reconstruction Finance Corporation liquidation fund	(3)	----------
Loans guaranteed, insured, etc.—Continued		
Treasury Department:		
Reconstruction Finance Corporation liquidation fund	[6] 2	----------
Defense Production Act of 1950, as amended	[6] 14	----------
Federal Civil Defense Act of 1950, as amended	[6] 2	----------
Veterans' Administration	[7] 16,394	----------
Defense Production Act of 1950, as amended	171	----------
Total loans guaranteed, insured, etc., by Government agencies	56,279	757
Insurance and guarantees in force:		
Agriculture Department:		
Federal Crop Insurance Corporation	[8] 263	----------
Commerce Department:		
Federal Maritime Board and Maritime Administration:		
War risk insurance revolving fund	132	----------
Export-Import Bank of Washington:		
War risk and expropriation insurance	[9] 1	----------
Federal Deposit Insurance Corporation	[10] 152,769	2,440
Held by insured commercial and mutual savings banks	----------	66,091
Federal Home Loan Bank Board:		
Federal Savings and Loan Insurance Corporation	[10] 62,553	364
Held by insured institutions	----------	4,723
International Cooperation Administration:		
Industrial guarantees [11]	482	----------

See footnotes at end of table.

Long-range commitments and contingencies of the U.S. Government as of June 30, 1961—Continued

[In millions of dollars]

Commitment or contingency and agency	Gross amount of commitment or contingency	Public debt securities held by Government and other agencies
Insurance and guarantees in force—Continued		
U.S. Information Agency:		
Informational media guarantees	7	
Veterans' Administration:		
National service life insurance	40,311	5,866
U.S. Government life insurance	1,349	1,071
Total insurance and guarantees in force	257,867	80,555
Obligations issued on credit of the United States:		
Postal savings certificates:		
U.S. Postal Savings System	[12] 700	721
Canal Zone Postal Savings System	[12] 5	5
Total postal savings certificates	705	726
Other obligations: Federal Reserve notes (face amount)	26,736	[13] 27,253
Undisbursed commitments, etc.:		
To make future loans:		
Agriculture Department:		
Commodity Credit Corporation	7	
Disaster loans, etc., revolving fund	[3]	
Farmers' Home Administration:		
Farm tenant mortgage insurance fund	1	
Loan programs	19	
State rural rehabilitation funds	1	
Rural Electrification Administration	869	
Development Loan Fund	1,137	
Export-Import Bank of Washington:		
Regular lending activities	2,107	
Housing and Home Finance Agency:		
Office of the Administrator:		
College housing loans	314	
Public facility loans	36	
Urban renewal fund	592	
Housing for the elderly	2	
Public Housing Administration	207	
Interior Department:		
Bureau of Commercial Fisheries:		
Fisheries loan fund	[3]	
Defense Minerals Exploration Administration:		
Defense Production Act of 1950, as amended	[3]	
Undisbursed commitments, etc.—Continued		
To make future loans—Continued		
International Cooperation Administration:		
Loans to foreign countries [11]	1,219	
Small Business Administration (revolving fund)	112	
Veterans' Administration (veterans' direct loan program)	44	
Total undisbursed commitments to make future loans	6,667	
To purchase mortgages:		
Housing and Home Finance Agency:		
Federal National Mortgage Association:		
Secondary market operations	126	
Special assistance functions	418	
Total commitments to purchase mortgages	544	
To guarantee and insure loans:		
Agriculture Department:		
Farmers' Home Administration:		
Farm tenant mortgage insurance fund	6	
Commerce Department:		
Federal Maritime Board and Maritime Administration:		
Federal ship mortgage insurance revolving fund	110	
Housing and Home Finance Agency:		
Federal Housing Administration	6,077	
Defense Production Act of 1950, as amended	35	
Total commitments to guarantee and insure loans	6,228	
To purchase investment company debentures:		
Small Business Administration (revolving fund)	38	
Unpaid subscriptions, etc.:		
International Bank for Reconstruction and Development	5,715	
Inter-American Development Bank	370	
International Development Association	247	
Total unpaid subscriptions, etc	6,332	

[1] Guaranteed loans and certificates of interest, included in the Corporation's balance sheet with the direct loans, amounted to $606,000,000 as of June 30, 1961.
[2] Includes accrued interest.
[3] Less than $500,000.
[4] Represents the Administration's portion of insurance liability. The estimated amount of insurance in force and loan reports in process, as of June 30, 1961, is $1,610,000,000. Insurance on loans shall not exceed 10 percent of the total amount of such loans.
[5] Excludes $17,000,000 deferred participations (guaranteed loans) representing estimated amount not requiring purchase.
[6] Represents deferred participations.
[7] Represents the Veterans' Administration portion of insurance liability. The total amount of loans in the hands of private lenders is estimated at $29,864,000,000.
[8] Represents estimated insurance coverage for the 1961 crop year.
[9] Excludes political risk export guaranties amounting to $164,000,000.
[10] Estimated insurance liability
[11] The Export-Import Bank of Washington acts as agent in carrying out this program.
[12] Excludes accrued interest.
[13] Includes public debt securities amounting to $21,235,000,000 that have been deposited by the Federal Reserve Bank system with the Federal Reserve agents as specific collateral.

NOTE.—The above figures are subject to the limitations and precautionary remarks, as explained in the note attached to this statement.

Mr. ROBERTSON. Mr. President, actually, the contingent liabilities of the Federal Government go well beyond the total of $361 billion set forth in the Treasury Department's statistics. To cite only a few examples: There is a large but unmeasured liability of the Federal Government for insured mail in transit. For the civil service employee retirement fund, the unfunded accrued liability—or deficit—exceeded $32.5 billion in mid-1961. A more remote but, nevertheless, outstanding contingent Federal liability, approaching $7.8 billion in mid-1961, consisted of Maritime Administration war risk insurance binders outstanding.

In addition to huge liabilities such as these, the Treasury Department reported unfunded contract authorizations of over $11.7 billion outstanding in mid-1961, plus more than $26.2 billion in unused authorizations to expend from debt receipts by drawing funds out of the Treasury through back-door financing without requiring prior appropriations.

Nor is this all. In addition to the $440 billion in Federal guarantees, insurance, and contingent liabilities that I have already mentioned, there is, of course, the public debt now approaching $300 billion. On top of these amounts should be placed accrued military pensions and commitments to veterans for future pensions and compensation, totaling $100 billion or more. Mr. President, I ask unanimous consent to have printed at this point in the RECORD, an article written by Maurice H. Stans, former Director of the Bureau of the Budget, and published in the Washington Post, February 19, 1962, in which he states that Federal commitments and contingencies exceed $1 trillion. That would be more than $1,000 billion.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNCLE SAM FACES $1 TRILLION DEBT

(By Maurice H. Stans)

Treasury Secretary C. Douglas Dillon has asked for a $10 billion increase in the ceiling on our national debt. This would bring it to an all-time high of $308 billion.

The Congress has indicated that it will deal with this request in two installments. An increase of $2 billion will undoubtedly be authorized immediately, as an emergency measure, to permit enough new funding to pay current bills. This will bring the debt total to the magic line of $300 billion.

Above this amount, Dillon will have tougher sailing, and the Congress may give him only a part of the additional $8 billion he wants. Senator HARRY F. BYRD, Democrat, of Virginia, longtime champion of solvent government, has announced that his Senate Finance Committee will hold hearings on the state of the Government's financial position before voting any further increases. By the time the hearings are concluded, the Senator will have some shocking news to report to the American people.

INTEREST IS $9 BILLION

The annual interest on the national debt is now running above $9 billion, and for the last several years this carrying cost, without any payment on the debt itself, has been taking 11 cents of every dollar of Federal taxes collected. And the chances that any of this debt will ever be paid off seems less and less as time goes on.

This is quite a contrast with the past. From the beginning of the Nation in 1789 until recent years, a major objective of every President was to pay off the national debt. It was done once—by Andrew Jackson in 1834. But each succeeding war built the debt to a new plateau; intervening efforts

accomplished reductions but never eliminated the entire amount.

Even so, at the end of fiscal 1916, the debt was only a little more than a billion dollars. By the end of World War I, it had soared above $25 billion. From this high point it was reduced in 11 consecutive years, cutting it by more than one-third to $16 billion in 1930.

From there it begin an upward climb, through wartime and peacetime, with the budget in the red 26 years out of 32. The depression years increased the debt regularly, and it had reached nearly $50 billion before the outbreak of World War II. At the close of the war it was $270 billion. Three subsequent surpluses by Truman and three more by Eisenhower could not match the costs of the Korean war and the intervening peacetime deficits. The current year's spending will push the debt to $300 billion, or more, and the end is not in sight.

CREDIT CARD GOVERNMENT

Up to now I have been referring only to the interest-bearing debt. But this isn't all that we owe as a nation. By a continuing policy of national extravagance, we have been committing the Government's future resources beyond this to an incredible degree. We have adopted in Washington a program of "credit-card government" that is placing a burden of staggering proportions on our children and grandchildren.

As Director of the Budget, I undertook in 1960 to add up all the liabilities of our Government. Here are some of them. We owe $30 billion in unfunded pensions to retired civilian employees of the Government. We owe almost $40 billion in accrued pensions to retired military servicemen. The total of our present commitments to veterans for future pensions and compensation (not counting many other benefits) is in excess of $300 billion. All of this $370 billion is for past services and in the financial statement of a business would be accounted for among liabilities.

Then there are many other present contractual or legislated government undertakings that will have to be financed in the future. Taking all of them—housing subsidy contracts, shipping subsidies, the Interstate Highway System, unfinished public works projects, unpaid purchases of military supplies and many others—this group adds up to more than $150 billion in further bills to be met in the coming years.

SOCIAL SECURITY, TOO

Altogether, counting the interest-bearing debt of $300 billion and the other obligations and commitments I have mentioned, we have placed a mortgage of over $800 billion on our national future to be met in taxes. This does not include untold billions of dollars in guarantees by the Government on housing loans and other mortgages, bank deposits and other savings and so on.

Even this is not the full story. Under our social security system, we have scheduled a series of benefits that far exceed, in actuarial terms, the resources that would be available at present tax rates. This deficiency, which can only be made up out of future tax increases already provided in the law, is another $250 or $300 billion.

This makes the total present undertakings of the Government, to be paid from future taxes, in excess of a trillion dollars. And that is beyond the regular annual costs of defense, welfare and other Government activities.

This is a national debt of more than $22,000 for every family of four in the country. Quite a spending spree we've been on for the last 30 years, isn't it?

Mr. ROBERTSON. Mr. President, if only the leaders of our Nation today placed the same premium on economy in Government as did Thomas Jefferson, America would not be in such a precarious financial position. In 1816 Jefferson said in a letter to William Plumer, then Governor of New Hampshire:

I * * * place economy among the first and most important of republican virtues, and public debt as the greatest of the dangers to be feared.

And in another letter, Jefferson wrote to Samuel Kercheval, also in 1816:

And to preserve their [the people's] independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude.

In a third letter, this one written to Thomas Cooper, Esq., in 1802, Jefferson said:

If we can prevent the Government from wasting the labors of the people, under the pretense of taking care of them, they must become happy.

Mr. President, I digress to say that I have given the correct quotations of Mr. Jefferson from the three letters that I have referred to. Several years ago a book entitled "Law and the Profits" was published by T. N. Parkinson, an English economist. He included all quotations in one and thereby misquoted Jefferson. That quotation was reprinted by the Reader's Digest, which, of course, has world circulation. The words of Jefferson have also been used several times in that garbled form on the floor of Congress. Consequently, in order to keep the record straight, I have repeated Jefferson's words as they were originally written. I hope those who have cited these remarks of Jefferson will take due notice thereof.

Mr. President, the words of Jefferson still ring true. There is, furthermore, a direct relation between the excessive spending by Government, of which Jefferson warned, and the extension of the franchise to an irresponsible electorate.

As I shall show later, voting is a privilege, not a right. It is a privilege which should not be dispensed lightly. By this, I mean that there must be qualifications for voting which will assure a responsible electorate. Throughout the 50 States there are various combinations of requirements related to residence, literacy, payment of poll taxes, conviction of criminal offenses, and so forth, which assure each sovereign State, to its own satisfaction, that the privilege of voting will not be extended to the irresponsible.

Most of this discussion with respect to the requirements of voters has naturally related to the qualifications of voters for statewide elections, including Federal elections. But it is interesting to note that some States have found it advisable to limit voters at certain special elections and to impose property and other qualifications for such voters. For instance, in section 2012 of the New York education law—and, Mr. President, I regret that the distinguished Senator from New York [Mr. JAVITS] is not here, in order that he may assure the Senate that I am correctly quoting the law of his State—mere qualification as a voter in statewide elections is not enough. In New York, one who wishes to vote for the election of school district officers and such other matters as school taxes and school bond issues must also show one of the following three qualifications:

(a) Owns, leases, hires, or is in the possession under a contract of purchase of, real property in such district liable to taxation for school purposes, but the occupation of real property by a person as lodger or boarder shall not entitle such person to vote, or

(b) Is the parent of a child of school age, provided such a child shall have attended the district school in the district in which the meeting is held for a period of at least 8 weeks during the year preceding such school meeting, or

(c) Not being the parent, has permanently residing with him a child of school age who shall have attended the district school for a period of at least 8 weeks during the year preceding such meeting.

School boards, school taxes, and school bond issues in New York are too important to be left to the ordinary voter. An interest in real property or a continuing responsibility for a child of school age is also necessary.

The poll tax is but a single requirement used as one of several qualifications in only five States. Certainly the requirement that each voter must pay a poll tax does not create an irresponsible electorate; and as my colleague, the senior Senator from Virginia [Mr. BYRD], has observed, anyone who is unwilling to pay $1.50—less than the price of a ball game—for the privilege of participating in his State's government is not likely to improve it with his vote.

Mr. President, with each State following its own course toward the establishment of not only a broad but also an informed, responsible electorate, the Nation is better able to protect itself from the deficit-spending proposals advanced by liberals under the stimulus of political expediency.

We are not seeking for America, Mr. President, the type of abortive democracy so apparent in the early stages of the French Revolution, when there was mob rule, followed by political, moral, and economic excesses of every conceivable kind. On the contrary, our aim is to create a responsible and informed electorate. The combination of an ever-expanding, increasingly productive public school system in every State and the institution of voter qualifications designed to reserve participation in elections to the civic-conscious and the informed, has enabled our Nation to boast of an electorate which each year, we like to believe, grows not only in quantity but, more important, in quality.

I think it would be well for us to recall the words of Thomas Jefferson:

In every government on earth is some trace of human weakness, some germ of corruption and degeneracy, which cunning will discover, and wickedness insensibly, open, cultivate, and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositaries. And to render even them safe, their minds must be improved to a certain degree. This, indeed, is not all that is necessary, though it be essentially necessary.

Mr. President, Jefferson warned that the seeds of corruption are found in every government, and that the safe-

guard is the people. But he also said that in order to render even the people safe, "Their minds must be improved to a certain degree."

In short, Mr. President, Jefferson said that it is necessary to educate the minds of those who are to run the government. The faith of Jefferson in the benefits of education led him to establish the University of Virginia at Charlottesville.

George Washington was another Virginian who firmly believed in an informed electorate; in his Farewell Address he stressed the importance of education in preserving our republican form of government.

Mr. President, to digress momentarily, it is not known by many persons that the Federal Government did not pay Washington any salary whatever during his service as Commander in Chief of the Army. At that time, although Virginia's finances were sorely depleted, the State did issue Washington $50,000 in 6 percent bonds. Washington donated those bonds to a little school in my home county—a school called Liberty Hall Academy, the student body of which numbered approximately 100 boys. During the Revolutionary War these students served our country well; many of them lost their lives.

Washington was so appreciative of those boys. There was only one college in Virginia at that time, William and Mary in Williamsburg. In fact there were but a few in the whole Nation: Princeton, King's College, St. John's, and Harvard, to mention four. There were no public schools, only academies such as Liberty Hall. After receiving the generous donation of Washington, this academy took the name of our country's Father, and became Washington College. Today it is Washington and Lee University.

George Washington and Robert E. Lee—two great Americans and two firm believers in the education of American youth.

An insurance company offered Lee a salary of $75,000. He replied that he could give the company his name only and that this was not for sale. Lee took the presidency of little Washington College for a salary of $2,500 a year in order, as he said, that he might help train southern youth to rebuild the ravaged South.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. ROBERTSON. Under the rules I can yield only for a question.

Mr. CASE of New Jersey. Has not the Senator from Virginia overlooked the fact that Rutgers University, now the State University of New Jersey, received its charter in 1766 and was in active operation during the Revolution?

Mr. ROBERTSON. I ask the Senator's pardon for my oversight. Several years ago I spoke at Rutgers. I was impressed with the high caliber of the school—also its ancient buildings and ivy-covered walls. The university conducts an outstanding school for banking; it was my privilege to speak on that subject. I wish to overlook no compliments for the great State of New Jersey, which is celebrating its 300th anniversary.

Mr. CASE of New Jersey. Mr. President, will the Senator yield at that point?

Mr. ROBERTSON. I yield for a question.

Mr. CASE of New Jersey. We hope to have the assistance of the Senator in preparing for the celebration. We appreciate the Senator's membership on a committee, on the Federal side, making arrangements for the celebration, and we are most grateful for all he has done. We have a lively anticipation of favors from him yet to come.

Mr. ROBERTSON. I thank the Senator from New Jersey for his complimentary remarks. The citizens of his great State took a fine statesman who was born in Virginia, elected him Governor, and then helped elect him President of the United States. I, of course, refer to Woodrow Wilson and shall quote from him before I conclude. Virginians will always be grateful to New Jersey for recognizing its citizens of outstanding ability.

Mr. CASE of New Jersey. On behalf of our State, may I thank the Senator, and, so far as I am concerned, he can put this in the RECORD in extenso, if he wishes.

Mr. ROBERTSON. As I was saying, the important thing for us to do is to expand the intelligence of our electorate.

Mr. President, on page 2 of the March 23 edition of the Washington Post, there is an article entitled "Long Sessions Fail To Break Poll-Tax 'Filibuster' in Senate." The title alone is a gratuitous insult to those of us who have been trying to explain the constitutional principles involved in the question before the Senate. Not one of the 15 Senators who have spoken thus far has failed to address himself to the issue at stake. I do not think it is fair to inflame the public mind against the legitimate—indeed commendable—efforts of some Senators to engage in debate on a vital constitutional question.

The reporter makes the following statement:

> While the southerners were blasting the amendment as an attack on States rights—

Now that is objective, polite language—the article continues—

> a group of seven liberal organizations, including Americans for Democratic Action and the Anti-Defamation League, ironically whaled away at it too as an anti-civil-rights measure.
>
> The liberal groups prefer the direct statutory approach for repealing the poll tax, as put forward in a substitute by Senator JACOB K. JAVITS, Republican, of New York.
>
> They particularly criticized section 2 of the Holland amendment providing that nothing should invalidate any provision of law denying the right to vote to paupers or persons supported at public expense or by charitable institutions. They said this would encourage some States to redefine a pauper to defeat the purpose of the amendment.
>
> HOLLAND said the language was identical with that which passed the Senate 2 years ago, and that the liberal groups, while opposing his amendment at that time, made no point about section 2. He said the language was suggested to him by the Library of Congress, and was not aimed at paupers but at machine use of their votes.
>
> The liberal organizations charged further that the proposed amendment would not outlaw poll taxes in a direct election. They argued the States could abolish the system of voting for electors in favor of a direct election in order to get around the amendment.
>
> Besides ADA and the Anti-Defamation League, liberal groups opposing the amendment included the National Association for the Advancement of Colored People, the American Jewish Congress, the American Veterans' Committee, the International Union of Electrical Workers (AFL–CIO) and the United Automobile Workers (AFL–CIO).

This summary of the attitude of the so-called liberal groups clearly shows the danger which our republican form of government faces.

I repeat a passage from the article:

> The liberal groups prefer the direct statutory approach for repealing the poll tax, as put forward in a substitute by Senator JACOB K. JAVITS, Republican, of New York.

This "direct statutory approach" is, as I will show later, a clear and unequivocal attempt to amend our Constitution by a method unconstitutional in itself. Such tactics, I might add, have been the hallmark of these liberal groups for many years. Their insistence that Congress and the courts exceed the bounds of the Constitution has already resulted in the usurpation of substantial power from the States.

Referring again to the article in the Washington Post, I should like for Senators to be apprised of the extreme—indeed fantastic—position which these liberal groups have taken. I repeat a paragraph from the article:

> They particularly criticized section 2 of the Holland amendment providing that nothing should invalidate any provision of law "denying the right to vote to paupers or persons supported at public expense or by charitable institutions." They said this would encourage some States to "redefine a pauper" to defeat the purpose of the amendment.

Here we see the clear intention of these groups to extend the franchise—which is a privilege and not a right—to the elements in every State, who, having little or no financial responsibility themselves, can be expected to vote to support any proposal which drives our Federal Government further and further into debt and nearer and nearer to national bankruptcy. I might add that these are the groups which have advocated and continue to advocate the distribution of the wealth of our Nation in a manner strikingly similar to that proposed for the world by Karl Marx.

Mr. President, there was never a more propitious time for us to examine the Constitution as it is interpreted by America's great statesmen.

We should consider the statement of Woodrow Wilson in his book on constitutional government in the United States, that "The question of the relation of the States to the Federal Government is the cardinal question of our Constitution."

There can be no doubt but that the Javits bill strikes at the very heart of the doctrine of States rights. In a representative democracy the most valuable, the most precious right any State can

possess is the right to control its own election laws. Take that right away and they become helpless pawns in the hands of a Federal bureaucracy.

No one man was more instrumental than George Washington in bringing the 13 States together in a Federal Union. No one realized more clearly than he that such a Union would not be self-preserving and that its future would be hazarded if concessions originally made in the interest of harmony and cooperation should later be overridden. Hence his plea in his farewell address for its preservation, just as timely now as when spoken, in his admonition:

The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasion of the others, has been evinced by experiments ancient and modern; some of them in our country and under our own eyes.

He also said:

To preserve them must be as necessary as to institute them.

Andrew Jackson gave similar advice in his farewell address as President. He said:

My experience in public concerns and the observations of a life somewhat advanced confirm opinions long since imbibed by me, that the destruction of our State governments or the annihilation of their control over the local concerns of the people would lead directly to revolution and anarchy and finally to despotism and military domination.

Jackson also said in this address:

We behold systematic efforts publicly made to sow the seeds of discord between different parts of the United States and to place party divisions directly upon geographical distinctions; to excite the South against the North, and the North against the South—

Jackson made this statement over 125 years ago. I read his words again:

We behold systematic efforts publicly made to sow the seeds of discord between different parts of the United States and to place party divisions directly upon geographical distinctions; to excite the South against the North, and the North against the South.

Mr. President, when our New England brethren had fired "the shot heard 'round the world," Virginia's leaders did not hesitate to go to the help of our sister States. Why? Because that threatened the rights of the northern colonies. Fifty years after our unity had given us victory, a great Senator from Massachusetts named Daniel Webster addressed a group of Revolutionary War veterans at Bunker Hill. When he made that memorable speech, what words did he have for Virginia? He did not say, "Let us take away from Virginia its constitutional right to levy a poll tax." No. He said—

As long as the James River flows by Jamestown Island, as long as the Atlantic washes Plymouth Rock, no vigor of youth, no maturity of manhood will cause our Nation to forget those early spots, that cradle that defended the infancy of our Republic.

And when the great Jefferson lay dying, what did he have to say about that gifted statesman, John Adams of Massachusetts? He said:

Thank God, Adams still lives.

It is those who would destroy this unity and mutual respect whom Jackson had in mind when he wrote over 125 years ago—I repeat again:

We behold systematic efforts publicly made to sow the seeds of discord between different parts of the United States and to place party divisions directly upon geographical distinctions to excite the South against the North, and the North against the South.

I continue quoting from Andrew Jackson:

and to force into the controversy the most delicate and exciting topics upon which it is impossible that a large portion of the Union can ever speak without strong emotions. Appeals, too, are constantly made to sectional interests, in order to influence election of the Chief Magistrate, as if it were desired that he should favor a particular quarter of the country, instead of fulfilling the duties of his station with impartial justice to all.

But the Constitution cannot be maintained, nor the Union preserved, in opposition to public feeling, by the mere exertion of the coercive powers confided to the General Government. The foundations must be laid in the affections of the people; in the security it gives to life, liberty, character, and property, in every quarter of the country; and in the fraternal attachments which the citizens of the several States bear to one another, as members of one political family, mutually contributing to promote the happiness of each other.

Hence the citizens of every State should studiously avoid everything calculated to wound the sensibility or offend the just pride of the people of the other States—

I repeat those words:

Hence the citizens of every State should studiously avoid everything calculated to wound the sensibility or offend the just pride of the people of the other States.

He said further:

And they should frown upon any proceedings within their own borders likely to disturb the tranquility of their political brethren in other portions of the Union. In a country so extensive as the United States, and with pursuits so varied, the internal regulations of the several States must frequently differ from one another in important particulars; and this difference is unavoidably increased by the varying principles upon which the American Colonies were originally planted; principles which had taken deep root in their social relations before the Revolution, and, therefore, of necessity, influencing their policy since they became free and independent States. But each State has the unquestionable right to regulate its own internal concerns according to its own pleasure; and while it does not interfere with the rights of the people of other States, or the rights of the Union, every State must be the sole judge of the measures proper to secure the safety of its citizens and promote their happiness and all efforts on the part of the people of other States to cast odium upon their institutions, and all measures calculated to disturb their rights of property, or put in jeopardy their peace and internal tranquillity, are in direct opposition to the spirit in which the Union was formed and must endanger its safety.

Motives of philanthropy may be assigned for this unwarrantable interference; and weak men may persuade themselves for a moment that they are laboring in the cause of humanity, and asserting the rights of the human race; but everyone, upon sober reflections, will see that nothing but mischief can come from these improper assaults upon the feelings and rights of others. Rest assured that the men found busy in this work of discord are not worthy of your confidence and deserve your strongest reprobation.

Andrew Jackson called a spade a spade, and I continue his words:

It is well known that there have been those amongst us who wish to enlarge the powers of the General Government and experience would seem to indicate that there is a tendency on the part of this Government to overstep the boundaries marked out for it by the Constitution Its legitimate authority is abundantly sufficient for all the purposes for which it was created, and its power being expressly enumerated, there can be no justification for claiming anything beyond them.

Every attempt to exercise power beyond these limits should be promptly and firmly opposed. For one evil example will lead to other measures still more mischievous; and if the principle of constructive powers, or supposed advantages, or temporary circumstances shall ever be permitted to justify the assumption of a power not given by the Constitution, the General Government will before long absorb all the powers of legislation, and you will have in effect, but one consolidated Government.

From the extent of our country, its diversified interests, different pursuits, and different habits, it is too obvious for argument that a single consolidated Government would be wholly inadequate to watch over and protect its interests, and every friend of our free institutions should be always prepared to maintain unimpaired and in full vigor the rights and sovereignty of the States, and to confine the action of the General Government strictly to the sphere of its appropriate duties.

Referring again to Woodrow Wilson and his ideas on constitutional government, we find him saying of the relation of the States to the Federal Government:

It is difficult to discuss so critical and fundamental a question calmly and without party heat or bias when it has come once more, as it has now, to an acute stage. Just because it lies at the heart of our constitutional system to decide it wrongly is to alter the whole structure and operation of our Government, for good or for evil, and one would wish never to see the passion of party touch it to distort it. A sobering sense of responsibility should fall upon everyone who handles it. No man should argue it this way or that for party advantage. Desire to bring the impartial truth to light must, in such a case, be the first dictate alike of true statesmanship and of true patriotism. Every man should seek to think of it and to speak of it in the true spirit of the founders of the Government and of all those who have spent their lives in the effort to confirm its just principles both in counsel and in action.

Continuing his discussion, Wilson said that—

The principle of the division of powers between State and Federal Governments is a very simple one when stated in the most general terms. It is that the legislatures of the States shall have control of all the general subject matter of law, of private rights of every kind, of local interests, and of everything that directly concerns their people as communities—free choice with regard to all matters of local regulation and development, and that Congress shall have control only of such matters as concern the peace and the commerce of the country as a whole.

He said we are apt to think of our American political system as distinguished by its central structure—its President and Congress and courts which the Constitution set up—but "as a matter of fact, it is distinguished by its local structure, by the extreme vitality of its parts. It would be an impossibility without its division of powers."

From the first—

Wilson said—

America has been a nation in the making. It has come to maturity by the stimulation of no central force or guidance, but by an aboundingly self-helping, self-sufficient energy in its parts, which severally brought themselves into existence and added themselves to the Union, pleasing first of all themselves in the framing of their laws and constitutions, not asking leave to exist and constitute themselves, but existing first and asking leave afterward, self-originated, self-constituted, self-confident, self-sustaining, veritable communities, demanding only recognition. Communities develop not by external but by internal forces. Else they do not live at all. Our Commonwealths have not come into existence by invitation, like plants in a tended garden; they have sprung up of themselves, irrepressible, a sturdy spontaneous product of the nature of men nurtured in a free air.

It is this spontaneity and variety—

He continued—

this independent and irrepressible life of its communities, that has given our system its extraordinary elasticity, which has preserved it from the paralysis which has sooner or later fallen upon every people who have looked to their central government to patronize and nurture them.

Later in the same lecture Wilson said that—

The division of powers between the States and the Federal Government effected by our Federal Constitution was the normal and natural division for this purpose. Under it the States possess all the ordinary legal choices that shape a people's life. Theirs is the whole of the ordinary field of law; the regulation of domestic relations and of the relations between employer and employee, the determination of property rights and of the validity and enforcement of contracts, the definition of crimes and their punishment, the definition of the many and subtle rights and obligations which lie outside the fields of property and contract, the establishment of the laws of incorporations and of the rules governing the conduct of every kind of business. The presumption insisted upon by the courts in every argument with regard to the powers of the Federal Government is that it has no power not explicitly granted it by the Federal Constitution or reasonably to be inferred as the natural or necessary accompaniment of the powers there indisputably conveyed to it.

Woodrow Wilson was a great teacher of history and of government. When I was a young boy in the history class I was studying Woodrow Wilson's "The State," and also Bryce's "American Commonwealth." From those two great writers I got the impulse to devote my life to public service. I have been a follower of Woodrow Wilson ever since, and I take pleasure in quoting him here today, because I think that next to Thomas Jefferson he has been one of the greatest expounders of democracy we have ever had. He continued in his lecture:

But the presumption with regard to the powers of the States they have always held to be of exactly the opposite kind. It is that the States of course possess every power that Government has ever anywhere exercised, except only those powers which their own constitutions or the Constitution of the United States explicitly or by plain inference withhold. They are the ordinary governments of the country; the Federal Government is its instrument only for particular purposes.

Wilson also said:

The remedy for ill-considered legislation by the States, the remedy alike for neglect and mistake on the part of their several governments, lies not outside the States, but within them. The mistakes which they themselves correct will sink deeper into the consciousness of their people than the mistakes which Congress may rush in to correct for them, thrusting upon them what they have not learned to desire. They will either themselves learn their mistakes, by such intimate and domestic processes as will penetrate very deep and abide with them in convincing force, or else they will prove that what might have been a mistake for other States or regions of the country was no mistake for them, and the country will have been saved its wholesome variety. In no case will their failure to correct their own measures prove that the Federal Government might have forced wisdom upon them. * * *

Moral and social questions originally left to the several States for settlement can be drawn into the field of Federal authority only at the expense of the self-dependence and efficiency of the several communities of which our complex body politic is made up. Paternal morals, morals enforced by the judgment and choices of the central authority at Washington, do not and cannot create vital habits or methods of life unless sustained by local opinion and purpose, local prejudice and convenience—unless supported by local convenience and interest; and only communities capable of taking care of themselves will, taken together, constitute a nation capable of vital action and control. You cannot atrophy the parts without atrophying the whole. Deliberate adding to the powers of the Federal Government by sheer judicial authority, because the Supreme Court can no longer be withstood or contradicted in the States, both saps the legal morality upon which a sound constitutional system must rest, and deprives the Federal structure as a whole of that vitality which has given the Supreme Court itself its increase of power. It is the alchemy of decay.

Wilson concluded his lecture with the assertion that—

We are certified by all political history of the fact that centralization is not vitalization. Moralization is by life, not by statute; by the interior impulse and experience of communities, not by fostering legislation which is merely the abstraction of an experience which may belong to a nation as a whole or to many parts of it without having yet touched the thought of the rest anywhere to the quick. The object of our Federal system is to bring the understandings of constitutional government home to the people of every part of the Nation to make them part of their consciousness as they go about their daily tasks. If we cannot successfully effect its adjustments by the nice local adaptations of our older practice, we have failed as constitutional statesmen.

When I quote Woodrow Wilson, I am quoting a great statesman who was a liberal of his day. The so-called liberals of this generation could learn much from Wilson. They would learn, for one thing, that the erosion of constitutional government is a sure step to despotism.

Let us consider the history of the poll tax and its association with the privilege of voting.

A point sometimes overlooked is that the poll tax came into being in this country not as a device for restricting suffrage, but as a liberalizing measure to increase the number of those eligible to vote.

When the Federal Constitution was adopted in 1789, only Vermont had universal suffrage. The general requirement for voting was ownership of property, usually real estate. The men who framed our Constitution knew that the State constitutions adopted by Delaware, Maryland, and New Jersey in 1776, by Georgia in 1777, and by Massachusetts in 1780, all contained provisions that voters must be males, at least 20 years of age, who possessed a freehold or estate. In 1789, the year after it had ratified the Constitution, the State of Georgia liberalized its requirements by extending the vote to those who had prepaid taxes, even though they did not have the property-ownership qualification. Other States took similar action and the adoption of the poll tax was quite generally recognized as the first major step in expansion of the suffrage.

Specifically, we find the Pennsylvania constitution of 1776, section 6, limited the vote to freemen 21 years and over, resident for 1 year next before the election, and who had paid taxes during that time. This qualification as to taxes was expanded by the State's 1790 constitution.

The New York constitution of 1777, article VII, in describing qualifications of electors, included the phrase "and been rated and actually paid taxes to this State." This was retained in the 1801 revision.

The North Carolina constitution of 1776, article VIII, specified residence of 12 months before an election, and added, "and shall have paid public taxes."

The South Carolina constitution of 1778 provided prepayment of taxes as an alternative to landownership as a voting qualification.

It must be observed, too, that the men who drafted the Constitution did not overlook, but carefully considered, the various restrictions placed on voting at the time.

CONVENTION DEBATES

Thus, in the debates at the Constitutional Convention, as reported by Elliott, we find James Madison suggesting that there be a definite statement of qualifications placed in the Constitution, and expressing the opinion that the freeholders of the country—landowners—would be the safest depository of republican liberty.

It was recognized, however, that the qualifications fixed by the States were not all the same, and that a uniform rule would require changes in their basic laws which might hinder ratification of the Constitution. Consequently, the Committee of Detail, on August 6, 1787, recommended that, "the qualifications of the electors shall be the same, from time to time, as those of the electors of the several States, of the most numerous branch of their own legislatures"—volume 5, Elliott's Debates, page 377.

The proposal of the Committee on Detail which I have just mentioned touched off a long debate, in which Gouverneur Morris, of Pennsylvania, advocated a uniform rule in the Constitution limiting the franchise to landowners. He objected to making the question of qualifications dependent on the will of the States, not because he thought they would unduly restrict the electorate, but because he feared they would be too generous in extending the privilege.

Oliver Ellsworth, of Connecticut, warned, however, that the right of suffrage was a tender point, carefully guarded in the State constitutions, and that tampering with it might wreck the new National Government.

James Wilson, of Pennsylvania, also took issue with Morris. He said it would be difficult to settle on a uniform rule for all States, and he pointed in particular to the possibility that a disagreeable situation might arise if electors of the State legislature and Congress were not the same.

"It would be very hard and disagreeable," Wilson said, as reported by Madison, "for the same persons, at the same time, to vote for representatives in the State legislature, and to be excluded from a vote for those in the National Legislature" (5 Ell. Deb. 385).

George Mason, of Virginia, also contended for the very point I am stressing today—that a power to alter the qualifications of voters would be a dangerous power in the hands of the National Legislature. Once the principle is established that the Congress can make such changes, the power used at one time to expand the electorate may be used at another to restrict it, and, theoretically at least, the restriction could be carried so far that we would have a despotism.

Mr. Mason called attention to the fact that eight or nine States already had abolished landholding qualifications, although most of them continued to require some material evidence of the citizen's responsible interest in his Government.

At the conclusion of this debate the Morris proposal to limit the ballot to freeholders was defeated by a vote of seven States to one and the committee plan was adopted without a dissenting vote. Its language was changed only slightly, and became that part of section 2 of article I of the Constitution which reads:

> The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Nowhere in the original body of the original Constitution will be found a restriction on the discretion of the States in fixing the qualifications of voters. There are some restrictions in the 14th, 15th, and 19th amendments. But, as I shall show, these restrictions do not cover the point at issue.

The thinking of the men who wrote our Constitution is indicated not only by the Convention debates, but also by contemporary writings and statements.

We find, for example, that Thomas Jefferson favored payment of taxes as an alternative to holding land as a qualification for voters. In his draft for a proposed Constitution for Virginia, written in June 1776, while he was in Philadelphia as a member of the Continental Congress, Jefferson proposed:

> All male persons of full age and sane mind, having a freehold estate in (one-fourth of an acre) of land in any town or in (25) acres of land in the country, and all persons resident in the colony who shall have paid scott and lot to government the last (2 years) shall have right to give their vote in the election of their respective representatives.

In this same draft, incidentally, Jefferson proposed that—

> No person hereafter coming into this country shall be held within the same in slavery under any pretext whatever.

That, Mr. President, was proposed by Thomas Jefferson for the Virginia Constitution in 1776, and it was proposed to be written into the Federal Constitution in Philadelphia in 1787. It was primarily the State of Massachusetts and other maritime States that were bringing the slaves into the South which objected to that being written into the Constitution as proposed by the representatives from Virginia, and they said that if that were put into the Constitution they would walk out of the convention before any constitution had been agreed to.

Jefferson gave a further exposition of his ideas on suffrage in his 1873 draft for a Constitution for Virginia in which he proposed:

> All free male citizens of full age, and sane mind, who for one year before shall have been resident in the county or shall through the whole of that time have possessed therein real property of the value of ———; or shall for the same time have been enrolled in the militia, and no others shall have a right to vote for delegates for the said county, and for senatorial electors for the district.

FEDERALIST INTERPRETATION

As has already been indicated, the members of the Constitutional Convention were conscious of the need to satisfy the people of the various States on this touchy subject of suffrage rights and it was one of the subjects which received attention in the Federalist papers which gave the most extensive contemporary exposition of the Constitution.

In No. 52 of the Federalist, written by either Madison or Hamilton, it was pointed out that the Constitution made the qualification for Federal electors the same as those of the electors of the most numerous branch of the State legislature.

> The definition of the right of suffrage is very justly regarded as a fundamental article of republican government.

The Federalist author continued:

> It was incumbent on the Convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States, would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone.

Mark the following words of the paragraph in the quotation:

> To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention.
>
> The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge rights secured to them by the Federal Constitution.

Then, in the 54th Federalist, which also may have been written by either Madison or Hamilton, it was remarked:

> The qualifications on which the right of suffrage depend are not, perhaps, the same in any two States. In some of the States the difference is very material. In every State, a certain proportion of inhabitants are deprived of this right by the constitution of the State, who will be included in the census by which the Federal Constitution apportions the Representatives.

Discussing the subject of qualification of electors further in the 59th Federalist, Hamilton wrote:

> It will not be alleged that an election law could have been framed and inserted in the Constitution which would have been always applicable to every probable change in the situation of the country; and it will therefore not be denied that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably modified and disposed; that it must either have been lodged wholly in the National Legislature, or wholly in the State legislatures, or primarily in the latter and ultimately in the former. The last mode has, with reason, been preferred by the convention. They have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations; which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

Note that Hamilton, always an advocate of strong Central Government and fearful of State encroachments, in attempting to win support for the compromise provisions of the Constitution which he had helped to frame claimed no more than that the national authority might interpose itself in the regulation of elections when "necessary to its safety."

He argued that giving the exclusive power of regulating elections for the National Government to the State legislatures would leave the existence of the Union at their mercy, since they could annihilate it simply by refusing to hold any election for national officials.

Turning then to the other side of the picture, he said:

Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of State governments?

Mind you, that is the great Alexander Hamilton, of New York, speaking.

I continue to read from his statement:

The violation of principle in this case would have required no comment—

That is Alexander Hamilton, speaking about an effort of the Congress to fix the qualifications of voters.

The violation of principle, in this case, would have required no comment; and to an unbiased observer, it will not be less apparent in the project of subjecting the existence of the National Government, in a similar respect, to the pleasure of the State governments. An impartial view of the matter cannot fail to result in a conviction, that each, as far as possible, ought to depend on itself for its own preservation.

Alexander Hamilton said that the Federal Government would depend for its preservation upon section 4, by which the Congress may regulate the times, places, and manner of holding elections to make sure that all the States have such elections; and that the States would preserve their integrity and sovereignty under section 2 of article I, which gives them the power of fixing the qualifications of voters, subject only to the restriction that they cannot impose on the electors or voters for Federal offices any different requirements than they impose on those who they say are qualified to vote for the most numerous branch of the State legislature.

Continuing his discussion in the 60th Federalist, Hamilton said that with the House of Representatives being elected directly by the people, the Senate by the State legislatures, and the President by electors chosen for the purpose by the people, there would be little probability of a common interest to cement these different branches in a predilection for any particular class of electors.

As to the Senate he said:

It is impossible that any regulation of time and manner, which is all that is proposed to be submitted to the National Government in respect to that body, can affect the spirit which will direct the choice of its members.

Further on in the same paper, discussing fears that elections might be manipulated in the interest of the "rich and the well born," Hamilton said the only way of securing such preference would be by prescribing qualifications of property either for those who may elect or be elected.

He continued:

This forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature.

He was referring, of course, to this body. Alexander Hamilton wrote as clearly as English language could be expressed that the power to pass on the qualifications of voters was left expressly by the Constitution to the States, and he stated that such powers are unalterable by the legislature.

The clear distinction Hamilton made, in explaining that the Federal Government might regulate the time, the place, and the manner of holding elections but could not change the qualifications of the electors, was also recognized and emphasized by others.

RATIFYING CONVENTION DEBATES

In the Massachusetts convention, in answer to a query as to whether Congress might prescribe a property qualification for voters, Mr. Rufus King, a member of the Federal Convention, said:

The idea of the honorable gentleman from Douglass transcends my understanding; for the power of control given by this section extends to the manner of elections, not the qualifications of the electors.

And James Wilson, who had warned in the Federal Convention of the difficulty that might result if qualifications of State and National electors were different, had this to say in the Pennsylvania convention:

In order to know who are qualified to be electors of the House of Representatives, we are to inquire who are qualified to be electors of the legislature of each State. If there be no legislature in the States, there can be no electors of them; if there be no such electors, there is no criterion to know who are qualified to elect Members of the House of Representatives. By this short, plain deduction, the existence of State legislatures is proved to be essential to the existence of the General Government.

In the Virginia convention, Wilson Nicholas, one of the delegates, said:

If, therefore, by the proposed plan, it is left uncertain in whom the right of suffrage is to rest, or if it has placed that right in improper hands, I shall admit that it is a radical defect; but in this plan there is a fixed rule for determining the qualifications of electors, and that rule the most judicious that could possibly have been devised, because it refers to a criterion which cannot be changed. A qualification that gives a right to elect representatives for the State legislatures, gives also, by this Constitution, a right to choose Representatives for the General Government.

All those who are familiar with what happened in the ratifying convention at Richmond know how Patrick Henry fought the ratification of the Constitution on the ground that it gave the Federal Government too much power; and this is one of the things that the question was raised about: Can the Federal Government pass on the qualifications of the voters; or can Virginia, as in the past, fix those qualifications, and the Federal Government just determine the times, places, and manner, if it wishes to do so, of holding those elections, where those who have the right to vote under the State law can then freely participate?

Wilson Nicholas was a member of the Philadelphia convention. He came back to Richmond and explained the meaning of what had been done at Philadelphia. He gave the members of the Richmond ratifying convention most positive assurance that the Federal Government could not and never would undertake to pass upon and fix the qualifications of voters. Even with that assurance, Mr. President, the Constitution was ratified in Virginia by a majority of only eight votes. I am very proud of the fact that I had two ancestors in that convention, Col. James Gordon, of Lancaster, and his son, James Gordon, Jr., close friends of Madison. I am proud they voted to ratify the Constitution, and I am glad to stand here and inform the Senate what the men who ratified it had in mind when they did so, and how wrong it would be to ignore the intentions of the framers of the Constitution and the intentions of those who participated in the convention and to override the States and to assume a right which they themselves have, and then take the step of pulling out one stone of the foundation of our constitutional representative democracy.

Again, in explaining the plan to the North Carolina convention, John Steele said:

Every man who has a right to vote for a representative to our legislature will ever have a right to vote for a Representative to the General Government. Does it not expressly provide that the electors in each State shall have the qualifications requisite for the most numerous branch of the State legislature? Can they, without a most manifest violation of the Constitution, alter the qualifications of the electors: The power over the manner of elections does not include that of saying who shall vote. The Constitution expressly says that the qualifications are those which entitle a man to vote for a State representative. It is, then clearly and indubitably fixed and determined who shall be the electors; and the power over the manner only enables them to determine how these electors shall elect—whether by ballot, or by vote, or by any other way.

Mr. President, one would think that the Senate had just been confronted with the question as to whether we could change the qualifications of electors; but John Steele, as I recall, was a delegate from North Carolina to the Philadelphia constitutional convention, and he returned to his State convention to explain the meaning of what had been done at the Philadelphia convention. The members of the State ratifying convention wished to know whether the Federal Government could change this procedure. He said to them, I repeat:

Can they, without a most manifest violation of the Constitution, alter the qualifications of the electors?

KEEPING FAITH WITH STATES

Mr. President, these excerpts from the debates in the ratifying conventions point to the correctness of the conclusion reached by Mr. Jesse F. Orton, New

York attorney and student of constitutional law, who said in a brief on this subject prepared several years ago:

This sentence (in art. I, sec. 2, saying electors shall have the same qualifications as electors of the most numerous branch of State legislatures), the only one on "qualifications," was obviously a material representation and also a solemn pledge, that each ratifying State would be permitted, as in fact it was commanded, to use in electing its Representatives the same qualifications used in electing the larger branch of its legislature. * * * This provision in section 2 of article I was definitely understood by each State as such a pledge and absolute assurance. Every State ratified the Constitution upon that express condition, many times repeated during the period of ratification.

Those are not my words; those are the words of a very distinguished attorney from New York City.

He goes on to say:

Few historical facts are more conclusively established than the fact that this pledge was made for the express and avowed purpose of obtaining the consent of the States to the adoption of the Constitution. It was repeated and emphasized in the Federalist, written chiefly by Madison and Hamilton, and in other writings and oral statements for the sole purpose of securing ratification. In the ratifying conventions it was used to satisfy any "doubting Thomas" that the States were absolutely protected in their power to control the suffrage in the election of Representatives.

Without this assurance, consent would have been refused by many of the States. With it, ratification was obtained in Massachusetts, New York, and Virginia by a vote of less than 53 percent of members present and voting.

In section 4, after providing: "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof," it was provided that "the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators." This grant of power to set at naught the election laws passed by the States in obedience to this command in section 4 met with more violent and angry protests probably than any other provision in the Constitution. Section 4 undoubtedly lost many votes of delegates who otherwise would have voted for ratification. If Congress had been given similar power to set at naught the action of the States with respect to qualifications, there is little doubt that nine States would not have ratified and the proposed Union would not have been formed.

All that, Mr. President, was a quotation from this distinguished lawyer in New York.

Certainly there is nothing equivocal about the language of article I, section 2, which says those who vote for national officers in each State shall have the same qualifications as those who vote for members of the most numerous branch of the State legislature. And section 4 of article I is precise in limiting the control of Congress to the times, places, and manner of electing Senators and Representatives.

The significance of these limitations is reinforced by the fact that as late as 1912, when the 17th amendment was proposed by Congress, providing for popular election of Senators, language was used identical to that of article I, section 2. This amendment says:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

This, mind you, Mr. President, was adopted after more than a century of experience with the suffrage provisions contained in the Constitution and also after there had been ample time to observe operations of the newer poll taxes which were adopted between 1875 and 1908.

It is a matter of record, however, that when the 17th amendment was debated in Congress, no issue was raised on the right of the States to determine the qualification of electors. But, on the contrary, serious consideration was given to a proposal to take away from Congress, by amendment, the authority to alter the times, places, and manner of holding elections.

Searching elsewhere than in article I for constitutional justification for abolishing the poll-tax requirement, supporters of such legislation have sometimes cited article IV, section 4, which says:

The United States shall guarantee to every State in this Union a republican form of government.

Analysis of this section as it was understood by those who wrote it tends, however, to strengthen rather than weaken the position of those who claim the States have a legitimate right to require tax payments as a prerequisite to voting.

In considering article IV, section 4, in No. 43 of the Federalist, Mr. Madison frankly raised the question whether or not the guarantee of a republican form of government might not "become a pretext for alteration in the State governments, without the concurrence of the States themselves."

Answering his own question, he said:

If the general government should interpose by virtue of this constitutional authority, it will be, of course, bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preexisting government of the form which is to be guaranteed. So long therefore as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for antirepublican constitutions: a restriction which, it is presumed, will hardly be considered as a grievance.

Those are the words of James Madison, explaining the meaning of that section of the Constitution. It will be noted that Madison believed that the guarantee applied to the forms of government existing in the States at the time the Constitution was written, and as I already have indicated, these governments included property or tax qualifications on the right to vote.

In Willoughby's authoritative book on the Constitution (1, 2d ed., 215) we also find him saying this with respect to article IV, section 4:

It will be noticed that the Constitution does not itself define the term "republican form of government." It has, however, always been an accepted rule of construction that the technical and special terms used in the Constitution are to be given that meaning which they had at the time that instrument was framed. This is but reasonable, for, in default of anything to the contrary, those who drafted the Constitution are to be presumed to have intended the words which they used to have that meaning they knew them to have. For a definition, then, of "republican government" we must discover what, in 1787, such a political form was considered to be. Certainly we may say that the governments of the Thirteen Original States as they existed at the time the Constitution was drafted must have been considered as illustrating the republican type. Furthermore, the constitutions of all those States which have been admitted to the Union since 1787 must be regarded as having been impliedly considered republican by Congress at the time of the giving of its assent to their entrance into the Union.

Also, discussing article I, section 4, in the Virginia ratifying convention, Mr. Madison explained:

It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of these, in the first place, to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution.

And, considering the State governments and General Government as distinct bodies, acting in different and independent capacities for the people, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State legislatures, the congressional control will very probably never be exercised. The power appears to me satisfactory, and as unlikely to be abused as any part of the Constitution.

This, it will be noted, deals only with the times, places, and manner of holding elections and not with qualifications of voters since, under the provision of article I, section 2, a State could not attempt to dissolve the General Government by disqualifying voters without automatically dissolving its own government.

COURT DECISIONS

Now, let us see what our courts have had to say about the dividing line between State and Federal powers as applied to voters and elections.

After the adoption of the 14th amendment a woman in Missouri, where the right to vote was limited to males, sued the registrar because he refused to put her name on the list of voters. She contended she was a citizen of the United States under the amendment and that the State could not abridge her right as such a citizen to vote for Presidential electors.

In this case, reported as *Minor* v. *Happersett* (21 Wallace 162) and decided in 1875, the Supreme Court denied her claim. The Court held that since she was a citizen, born of citizen parents

before the amendment, her status with respect to voting was not changed by it, because the right to vote before the amendment was not necessarily one of the privileges or immunities of citizenship. This was demonstrated by the necessity for the 15th amendment, which protected the Negro from being excluded from voting because of his color but did not affect his wife, who remained debarred on account of sex. It took the later 19th amendment to remove that bar.

The 14th amendment, the Court said, "does not confer the right of suffrage upon anyone."

Another issue raised in this case was whether or not the State, in refusing to allow women to vote, had failed to provide the republican form of government guaranteed by article IV, section 4.

On this point the Court said:

The guaranty is of a republican form of government. No particular government is designated as republican, neither is the exact form to be guaranteed, in any manner especially designated. Here, as in other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended. The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had governments when the Constitution was adopted. In all, the people participated to some extent, through their representatives selected in the manner specifically provided. These governments the Constitution did not change. They were accepted precisely as they were, and it is, therefore, to be presumed that they were such as it was the duty of the States to provide.

Thus we have unmistakable evidence of what was republican in form within the meaning of that term as employed by the Constitution.

That is the language of the Court, Mr. President. I am still quoting from the Court's opinion:

As has been seen (in the argument that has gone before) all the citizens of the States were not invested with the right of suffrage. In all, save perhaps New Jersey, this right was only bestowed upon men and not upon all of them. Under these circumstances, it is certainly now too late to contend that a government is not republican, within the meaning of this guaranty in the Constitution, because women are not made voters.

While the Court in this instance was considering particularly the limitations in the State governments which prevented women from voting, the opinion delivered by Chief Justice Waite cited other types of limitation as well.

The opinion, at page 172, contained this summary statement:

When the Federal Constitution was adopted, all the States, with the exception of Rhode Island and Connecticut, had constitutions of their own. These two continued to act under their charters from the Crown. Upon an examination of these constitutions we find that in no State were all citizens permitted to vote. Each State determined for itself who should have that power.

Thus in New Hampshire, "every male inhabitant of each town and parish with town privileges, and places unincorporated in the State, of 21 years of age and upwards, excepting paupers and persons excused from paying taxes at their own request," were its voters; in Massachusetts, "every male inhabitant of 21 years of age and upwards, having a freehold estate within the Commonwealth of the annual income of 3 pounds, or any estate of the value of 60 pounds"; in Rhode Island, "such as are admitted free of the company and society" of the Colony; in Connecticut, such persons as had "maturity in years, quiet and peaceable behavior, a civil conversation, and 40 shillings freehold or 40 pounds personal estate," if so certified by the selectmen; in New York, "every male inhabitant of full age who shall have personally resided within one of the counties of the State for 6 months immediately preceding the day of election * * * if during the time aforesaid he shall have been a freeholder possessing a freehold of the value of 20 pounds within the county, or have rented a tenement therein of the yearly value of 40 shillings, and been rated and actually paid taxes to the State"; in New Jersey, "all inhabitants * * * of full age who are worth 50 pounds, proclamation-money, clear estate in the same, and have resided in this county in which they claim a vote for 12 months immediately preceding the election"; in Pennsylvania, "every freeman of the age of 21 years, having resided in the State for 2 years next before the election, and within that time paid a State or county tax which shall have been assessed at least 6 months before the election"; in Delaware and Virginia, "as exercised by law at present"; in Maryland, "all freemen above 21 years of age having a freehold of 50 acres of land in the county in which they offer to vote and residing therein, and all freemen having property in the State above the value of 30 pounds current money, and having resided in the county in which they offer to vote 1 whole year next preceding the election"; in North Carolina, for Senators, "all freemen of the age of 21 years who have been inhabitants of any one county within the State 12 months immediately preceding the day of election, and possessed of a freehold within the same county of 50 acres of land for 6 months next before and at the day of election," and for members of the house of commons, "all freemen of the age of 21 years who have been inhabitants in any one county within the State 12 months immediately preceding the day of any election, and shall have paid public taxes"; in South Carolina, "every free white man of the age of 21 years, being a citizen of the State and having resided therein 2 years previous to the day of election and who hath a freehold of 50 acres of land, or a town lot of which he hath been legally seized and possessed for at least 6 months before such election, or (not having such freehold or town lot), hath been a resident within the election district in which he offers to give his vote 6 months before such election, and hath paid a tax the preceding year of three shillings sterling towards the support of the government"; and in Georgia, "such citizen and inhabitants of the State as shall have attained to the age of 21 years, and shall have paid tax for the year next preceding the election, and shall have resided 6 months within the county."

I am still quoting from the decision of Mr. Justice Story. The Court said:

In this condition of the law in respect to suffrage in the several States it cannot for a moment be doubted that if it had been intended to make all citizens of the United States voters the framers of the Constitution would not have left it to implication. So important a change in the condition of citizenship as it actually existed, if intended, would have been expressly declared.

This is the first case of the U.S. Supreme Court on this point. I ask the Senators to listen to the other cases, because I shall go down the line from the first case to the most recent case, that of Lassiter against Northampton Board of Elections, decided by the Supreme Court as late as 1959. The Supreme Court has never deviated, as I propose to show, from the first case right down to the present, in holding in clear, express, and explicit terms, that the States have exclusive jurisdiction over fixing the qualifications of voters, and that there is nothing anywhere in the Constitution, by indirection, by implication, or in any other way, that can give this proposed power to the Federal Government.

The decision of the Court in the case of Minor against Happersett, insofar as applicability of the 14th amendment to voting privileges was concerned, was influenced, of course, by the important slaughterhouse cases, which had been decided just 2 years earlier, in 1872.

SLAUGHTERHOUSE CASES

It was these cases which drew a clear line between national citizenship and State citizenship and established that the privileges adhering to one did not necessarily apply to the other.

The State of Louisiana had passed a law to regulate slaughterhouses near New Orleans and suit was brought on the ground that this law discriminated against certain citizens who had previously engaged in business, and that it therefore violated the 14th amendment.

More than a hundred pages in the reports—16 Wallace 36—were occupied by the Court's exhaustive analysis of the 14th amendment.

In its opinion, the Court said:

The first section of the 14th amendment, to which our attention is more specially invited, opens with a definition of citizenship—not only citizenship of the United States, but citizenship of the States. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments, and in the public journals. It has been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the Union. Those, therefore, who had been born and resided always in the District of Columbia or in the Territories, though within the United States, were not citizens. Whether this proposition was sound or not had never been judicially decided. But it had been held by this Court, in the celebrated Dred Scott case, only a few years before the outbreak of the Civil War, that a man of African descent, whether a slave or not, was not and could not be a citizen of a State or of the United States. This decision, while it met condemnation of some of the ablest statesmen and constitutional lawyers of the country, had never been overruled; and if it was to be accepted as a constitutional limitation of the right of citizenship, then all the Negro race who have recently been made freemen were still not only not citizens but were incapable of becoming so by anything short of an amendment to the Constitution.

To remove this difficulty primarily, and to establish a clear and comprehensive definition of citizenship which should declare what should constitute citizenship of the United States and also citizenship of a State, the first clause of the first section was framed.

That clause is the one reading—

All persons born and naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

The Court continued:

The first observation we have to make on this clause is, that it puts at rest both the questions which we stated to have been subject to differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the Dred Scott decision by making all persons born within the United States, and subject to its jurisdiction, citizens of the United States. That its main purpose was to establish the citizenship of the Negro there can be no doubt. The phrase "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign states born within the United States.

The next observation is more important in view of the arguments of counsel in the present case. It is, that the distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.

It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.

We think this distinction and its explicit recognition in this amendment of great weight in this argument, because the next paragraph of this same section, which is the one mainly relied on by the plaintiffs in error, speaks only of privileges and immunities of citizens of the United States, and does not speak of those of citizens of the several States. The argument, however, in favor of the plaintiffs rests wholly on the assumption that the citizenship is the same, and the privileges and immunities guaranteed by the clause are the same.

The language is: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

It is a little remarkable, if this clause was intended as a protection to the citizens of a State against the legislative power of his own State, that the words "citizen of the State" should be left out when it is so carefully used, and used in contradistinction to citizens of the United States, in the very sentence which precedes it. It is too clear for argument that the change of phraseology was adopted understandingly and with a purpose.

Of the privileges and immunities of the citizen of the United States, and of the privileges and immunities of the citizen of the State, and what they respectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

If, then, there is a difference between the privileges and immunities belonging to a citizen of the United States as such, and those belonging to the citizen of the State as such, the latter must rest for their security and protection where they have heretofore rested; for they are not embraced by this paragraph of the amendment.

The first occurrence of the words "privileges and immunities" in our constitutional history is to be found in the fourth of the articles of the old Confederation.

It declares "that the better to secure and perpetuate mutual friendships and intercourse among the peoples of the different States of this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice, excepted, shall be entitled to all the privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively."

In the Constitution of the United States, which superseded the Articles of Confederation, the corresponding provision is found in section 2 of the fourth article, in the following words: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States."

There can be but little question that the purpose of both these provisions is the same, and that the privileges and immunities intended are the same in each. In the article of the Confederation we have some of these specifically mentioned and enough perhaps to give some general idea of the class of civil rights meant by the phrase.

Fortunately, we are not without judicial instruction on this clause of the Constitution. The first and the leading case on the subject is that of Corfield against Coryell, decided by Mr. Justice Washington in the Circuit Court for the District of Pennsylvania in 1823.

"The inquiry," he says, "is, What are the privileges and immunities of citizens of the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are fundamental—which belong of right to the citizens of all free governments, and which have at all times been enjoyed by the citizens of the several States which compose the Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are, it would be more tedious than difficult to enumerate. They may all, however, be comprehended under the following general heads: Protection by the Government with the right to acquire and possess property of every kind and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may prescribe for the general good of the whole."

This definition of the privileges and immunities of citizens of the States is adopted in the main by this Court in the recent case of Ward against the State of Maryland, while it declines to undertake an authoritative definition beyond what was necessary to that decision. The description, when taken to include others not named but which are of the same general character, embraces nearly every civil right for the establishment and protection of which organized government is instituted. They are, in the language of Judge Washington, those rights which are fundamental. Throughout his opinion they are spoken of as rights belonging to the individual as a citizen of a State. They are so spoken of in the constitutional provision which he was construing. And they have always been held to be the class of rights which the State governments were created to establish and secure.

Please notice that last phrase used by the Court:

They have always been held to be the class of rights which the State governments were created to establish and secure.

To continue quoting from the Court's opinion in the Slaughterhouse cases:

In the case of Paul against Virginia, the Court, in expounding this clause of the Constitution, says that the privileges and immunities secured to citizens of each State in the several States by the provision in question are those privileges and immunities which are common to the citizens of the latter States under their constitutions and laws by virtue of their being citizens.

The constitutional provision there alluded to did not create those rights, which it calls privileges and immunities of citizens of the States. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised. Nor did it profess to control the power of the State governments over the rights of its own citizens.

Note well that last statement of the Supreme Court:

Nor did it profess to control the power of the State governments over the rights of its own citizens.

But that is what the proposals now under consideration propose to do.

Continuing with our citation of the Court's opinion:

Its sole purpose was to declare to the several States that whatever those rights, as you grant or establish them to your own citizens, as you limit or qualify, or impose restrictions, on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction.

It would be the vainest show of learning to attempt to prove by citations of authority that up to the adoption of the recent amendments (that is, the 13th, 14th, and 15th) no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against ex post facto laws, bills of attainder, and laws impairing the obligation of contracts. But with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay within the constitutional and legislative power of the States, and without that of the Federal Government.

Was it the purpose of the 14th amendment, by the simple declaration that no State shall make or enforce any law which shall abridge the privileges and immunities of the citizens of the United States to transfer the security and protection of rights which we have mentioned to the Federal Government? And where it declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States?

All this and more must follow if the proposition of the plaintiff is sound.

For not only are these rights subject to the control of Congress whenever in its discretion any of them are supposed to be abridged by State legislation but that body may also pass laws in advance limiting and restricting the exercise of power by the States in their most ordinary and usual functions, as in its judgment it may think proper on all such subjects and still further such construction would constitute this Court a perpetual censor upon all legislation of the States on the civil rights of their own citizens, with authority to nullify such as it did not approve, as consistent with those rights as existed at the time of the adoption of this amendment. The argument, we ad-

mit, is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, those consequences are so serious, so far reaching and pervading, so great a departure from the structure and spirit of our institutions, when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character, when in fact it radically changes the whole theory of the relations of the State and Federal Governments to each other and of both these governments to the people, the argument has a force that is irresistible in the absence of language which expresses such a purpose too clearly to admit of doubt.

Then, after pointing out that the Federal Government does unquestionably have responsibility for protecting the privileges and immunities of citizens under certain circumstances, such as when they are on the high seas or within the jurisdiction of a foreign government, the Court said it did not see in the 13th, 14th, and 15th amendments "any purpose to destroy the main features of the general system" of our Government.

The opinion concluded:

Under the pressure of all the excited feeling growing out of the war, our statesmen have still believed that the existence of the States with powers for domestic and local government including the regulation of civil rights, the rights of person and of property was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States and to confer additional power on that of the Nation.

But whatever fluctuations may be seen in the history of public opinion on this subject during the period of our national existence we think it will be found that this Court, so far as it functions required, has always held with a steady and an even hand the balance between State and Federal power, and we trust that such may continue to be the history of its relation to that subject so long as it shall have duties to perform which demand of it a construction of the Constitution or of any of its parts.

UNITED STATES AGAINST CRUIKSHANK

In 1876, the year after the case of Minor against Happersett was decided, Chief Justice Waite again emphasized the right as well as the obligation of the States to protect the privileges of their citizens.

In giving the Court's opinion in the case of *United States* v. *Cruikshank* (92 U.S. 542) he said:

The 14th amendment prohibits a State from depriving any person of life, liberty, or property without due process of law, or from denying to any person equal protection of the law, but this provision does not add anything to the rights of one citizen as against another. It simply furnishes an additional guarantee against any encroachment by the State upon the fundamental rights which belong to every citizen as a member of society.

The duty of protecting all its citizens in the enjoyment of an equality of rights was originally assumed by the States, and it remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees and no more. The power of the National Government is limited to this guarantee.

The only question, then, would seem to be whether the right of voting without paying a poll tax, when the State requires such payment, is such a fundamental right as the Court referred to.

UNITED STATES AGAINST REESE

The Court removed any doubt on this point in another opinion handed down in 1876, following the Cruikshank case, to which I have referred. In the case of *United States* v. *Reese* (92 U.S. 214) the Court said:

The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference in this particular to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, and so forth, as it was on account of age, property, or education. Now it is not.

Please notice closely the last part of that statement. The Court said that before adoption of the 15th amendment a State had as much right to exclude a citizen from voting on account of race, color, or previous condition of servitude, as it had—and still has since passage of the amendment—to exclude on account of age, property, or education.

EX PARTE YARBROUGH

We come next to 1884 and a case styled *Ex parte Yarbrough* (110 U.S. 651). The unanimous opinion in this case was written by Mr. Justice Miller, the same distinguished jurist who wrote the opinion in the Slaughter House cases from which I previously quoted. This is a leading case which has been cited and relied upon by the courts in later cases involving the right to vote.

In this case Yarbrough and others were prosecuted for interfering with the exercise of the right to vote by certain qualified voters in an election of a Member of Congress from Georgia. They were charged with making violent attacks on those persons to prevent their voting. Yarbrough and the other defendants claimed they were not subject to Federal prosecution because the right to vote was conferred by the State.

In its opinion the Court said:

The States, in prescribing the qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualification for voters for those eo nomine. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State.

I continue to read:

It adopts the qualification thus furnished as the qualification of its own electors for Members of Congress. It is not true, therefore, that electors for Members of Congress owe their right to vote to the State in any sense which makes the exercise of the right to depend exclusively on the law of the State.

In short, in the Yarbrough case the Court held that the State may not prescribe qualifications for Members of Congress as such, but it does automatically determine what their qualifications shall be when it fixes the qualifications for electors of the popular branch of its own legislature. It is therefore clear that until the present Constitution be amended, the Federal Government cannot in effect fix qualifications for electors for State legislatures by prescribing qualifications of those eligible to vote in national elections. Of course that is what it would amount to, and certainly under the Constitution the qualifications have to be the same. No one, either here or anywhere else, has ever challenged that fact.

SWAFFORD AGAINST TEMPLETON

The case of *Swafford* v. *Templeton* (185 U.S. 487) involved the question of whether a person qualified to vote under State laws, who is wrongfully denied that right, has a cause of action for damages arising under the Constitution of the United States.

In answering this question in the affirmative, the Court referred to the Yarbrough case, and interpreted that opinion in this way:

That is to say, the ruling was that the case was equally one arising under the Constitution or laws of the United States, or from violation of a State law which affected the exercise of the right to vote for a Member of Congress, since the Constitution of the United States had adopted, as the qualification of electors for Members of Congress, those prescribed by the State for electors of the most numerous branch of the legislature of the State.

It will be noted that the Court says the Constitution adopts the qualifications prescribed by the State—not that Congress adopts them. And, since it is the Constitution that adopts them, Congress is without power to alter this adoption.

GWINN AND BEAL AGAINST UNITED STATES

Again, in 1915 in the case of *Gwinn and Beal* v. *U.S.* (238 U.S. 347) Mr. Chief Justice White had this to say about the effect of the 15th amendment on State power (p. 362):

Beyond doubt, the amendment does not take away from the State governments in a general sense the power over suffrage which had belonged to those governments from the beginning, and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.

NEWBERRY AGAINST UNITED STATES

The authority of the Federal Government to regulate elections under article I, section 4 was further defined in 1921 in the case of *Newberry* v. *U.S.* (256 U.S. 232). Mr. Justice Pitney, speaking on behalf of Justices Brandeis, Clark, and himself, in a concurring opinion, which dissented on one main point in the case, said that section 4 "does not confer a general power to regulate elections, but only to regulate 'the manner of holding' them. But this can mean nothing less than the entire mode of procedure—the essence, not merely the form of conducting elections."

And, in its majority opinion in this case, the Court said:

We find no support in reason or authority for the argument that because the offices were created by the Constitution, Congress has some indefinite, undefined power over elections for Senators and Representatives not derived from section 4. The Government, then, of the United States, can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication.

Thus Congress may enact laws to protect the right to vote of those who are qualified by State law; but no power is expressly given, or given by necessary implication to say who shall be qualified to vote in the States.

BREEDLOVE AGAINST SUTTLES

The first case directly involving poll taxes to come before the Supreme Court for decision was that of *Breedlove* v. *Suttles* (302 U.S. 277) decided in 1937. In that case the plaintiff, a citizen of Georgia, attempted to vote in a State election and also in a Federal election held at the same time for a Representative in Congress. He was refused the right to vote in either election because he had not paid his poll tax. He then sued, contending the privilege of voting for Federal officials was one to which he was entitled, unrestricted by a tax unreasonably imposed through State invasion of his rights as a citizen of the United States.

Mr. Justice Butler, in the unanimous opinion of the Court, stated:

Payment of the tax as a prerequisite [to voting] is not required for the purpose of denying or abridging the privilege of voting. * * * Exaction of payment before registration undoubtedly serves to aid collection from electors desiring to vote, but that use of the States' power is not prevented by the Federal Constitution. * * * To make payment of poll taxes a prerequisite of voting is not to deny any privilege or immunity protected by the 14th amendment. Privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the 15th and 19th amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate.

That is a direct quotation from the decision of the Supreme Court rendered in 1915.

Then, after citing four leading cases, including those of Minor against Happersett and Ex parte Yarbrough, the Court stated:

The privileges and immunities protected are only those that arise from the Constitution and laws of the United States and not those that spring from other sources.

A more recent case, *Butler* v. *Thompson*, D.C.E.D. Va., 97 F. Supp. 17, affirmed, 341 U.S. 937, decided in 1951, gives the Virginia poll tax requirement and its administration by State officials, a constitutional "clean bill of health" similar to that bestowed on the State of Georgia by the Court in Breedlove against Suttles. I will review the Butler case later.

UNITED STATES AGAINST CLASSIC

We now come to the case of *United States* v. *Classic*, 313 U.S. 299 (1941).

This case is somewhat similar to the Yarbrough case, involving prosecution of Classic and others for interfering with voters in a Louisiana primary election. The main point in the case was whether the constitutional protection applied to voters in a primary as well as to a general congressional election. The Court decided that it did.

But, the Court proceeded to cite the Yarbrough case, following the ruling in that case, in holding that the right to vote in either primary or general elections of Members of Congress was given only to persons qualified under State law to vote for members of the most numerous branch of the legislature.

Mr. Justice Stone said:

Such right as is secured by the Constitution to qualified voters to choose Members of the House of Representatives is thus to be exercised in conformity with the requirements of State law, subject to the restrictions prescribed by section 2 and the authority conferred on Congress by section 4, to regulate the times, places, and manner of holding elections of Representatives.

We look then to the statutes of Louisiana here involved to ascertain the nature of the right which under the constitutional mandate they define and confer on the voter.

The Court also said in the case:

The right of the people to choose, * * * is a right established and guaranteed by the Constitution, and hence is one secured by it to those citizens and inhabitants of the State entitled to exercise the right.

Then followed this paragraph, which mistakenly has been relied upon by advocates of Federal action:

While, in a loose sense, the right to vote for Representatives in Congress is sometimes spoken of as a right derived from the States (citing cases), this statement is true only in the sense that the States are authorized by the Constitution to legislate on the subject as provided by section 2 of article I, to the extent that Congress has not restricted State action by the exercise of its powers to regulate elections under section 4 and its more general power under article I, section 8, clause 18 of the Constitution "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

In other words, the office of Representatives in Congress was created by the Constitution, of course. But, the opinion still says that the States are authorized to legislate as provided by section 2, which is the only section that refers to qualifications of voters, and that this authority may be limited by the Federal authority under section 4 which covers only times, places, and manner of holding elections.

I am aware, of course, that in the cases of *Smith* v. *Allwright* (1944) (321 U.S. 649) and *Rice* v. *Elmore* (C.C.A. 4th, 1947), 165 F. (2d) 387, in which certiorari was denied in 1948, 16 L.W. 3314, the issue was raised of whether a State primary was an integral part of the State election machinery and whether denial of a right to participate in the primary was a denial of a constitutional or Federal statutory right for which redress could be sought through injunctive relief or damage.

But these cases merely emphasize the accepted fact that States may not deny the right to vote which is guaranteed by the Constitution to those who are qualified. There is nothing in either of these decisions which contradicts the position taken by the Court in other cases, that the States have the authority to determine what are the qualifications.

PIRTLE AGAINST BROWN

Another case which may be mentioned is that of *Pirtle* v. *Brown* (118 Fed. (2d) 218). This grew out of the complaint of a citizen of Tennessee, otherwise qualified, who was refused the right to vote in a special election to fill a vacancy in the House of Representatives because he had not paid his poll tax.

If there could be a more direct issue before the court than that, I do not know what it could be. That is the very issue before us now. He wanted to vote for a Member of Congress, and he had not paid his poll tax. The State officials said, "You cannot vote." The district court found against him. The decision was affirmed unanimously by the Sixth Circuit Court of Appeals, whose opinion followed closely the reasoning of Mr. Justice Butler in the Breedlove case.

The Supreme Court was asked to review the case, but, on October 13, 1941, the petition was denied, without any opinion or statement.

Inherent in our Government is the protection of minorities on certain vital issues.

The Court, however, denied the writ and thus placed its stamp of approval on the ruling in the Breedlove case even when no State election was involved.

A few moments ago, I referred to the 1951 Virginia case of Butler against Thompson. If there has been any doubt regarding the right of a State to set the payment of a poll tax as a qualification for voting, this case surely must expel such doubt.

In *Butler* v. *Thompson*, D.C.E.D. Va., 97 F. Supp. 17, a special three-judge court reviewed the constitutionality of the Virginia poll tax as a prerequisite for voting. The decision of this special court was affirmed in 341 U.S. 937.

Judge Dobie, speaking for the three-judge court, the language of which the Supreme Court endorsed by its affirmation of the decision, had the following to say:

The decisions generally hold that a State statute which imposes a reasonable poll tax as a condition of the right to vote does not abridge the privileges or immunities of citizens of the United States which are protected by the 14th amendment. The privilege of voting is derived from the State and not from the National Government. The qualification of voters in an election for Members of Congress is set out in article I, section 2, clause 1 of the Federal Constitution which provides that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. The Supreme Court in *Breedlove* v. *Suttles*, 302 U.S. 277, 283, 58 S. Ct. 205, 82 L. Ed. 252, held that a poll tax prescribed by the Constitution and statutes of the State of Georgia did not offend the Federal Constitution.

Accordingly, the Supreme Court, by its affirmation of Judge Dobie's language, held that the Virginia poll tax statute did not violate either the 14th amendment or the 15th amendment and, fur-

thermore, was valid under article I, section 2 of the Constitution.

More recently—as late as 1959—the Supreme Court in *Lassiter* v. *Northampton Board of Elections*, 360 U.S. 45, upheld a North Carolina voting qualification, in this instance a literacy test.

In upholding North Carolina's literacy test qualification, Mr. Justice Douglas said at page 50:

> The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, *Pope* v. *Williams*, 193 U.S. 621, 633; *Mason* v. *Missouri*, 179 U.S. 328, 335, absent of course the discrimination which the Constitution condemns. Article I, section 2, of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators provide that officials will be chosen "by the people." Each provision goes on to state that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature." So while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough*, 110 U.S. 651, 663–665; *Smith* v. *Allbright*, 321 U.S. 649, 661–662) it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed. See *United States* v. *Classic*, 313 U.S. 299, 315.

Clearly, when Justice Douglas cites article I, section 2 of the Constitution, he is emphasizing that the right of the States to determine voter qualifications remains unaltered. When he refers to "State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed," he is merely affirming the universally accepted principle that no State can deny a citizen the right to vote because of race, creed, color, or sex, and that Congress under article I, section 4 of the Constitution may regulate "the times, places, and manner of holding elections."

I realize, of course, that the amendment proposed by the distinguished Senator from Florida [Mr. HOLLAND] is a constitutional means of altering our present form of government. Consequently, such a proposal obviously cannot be unconstitutional. However, it seems that whenever a proposal to abolish the poll tax by a constitutional amendment appears for consideration on the floor of Congress, a bill designed to accomplish the same result—such as the Javits bill—is never far behind. Although the policy objections which I have enumerated and will discuss further are applicable to both the proposed amendment and the bill, the constitutional objections—as Senators, I am sure, must realize—are reserved to the latter.

I have cited an unbroken line of cases, Federal and State, all of which clearly and unanimously hold that the right to fix qualifications is vested by the Constitution in the States. It has been argued at times that the cases are not in point because Congress has not legislated on the poll tax and when it does legislate, its regulation will be paramount. How foolish, since the Congress has no power except that conferred upon it by the Constitution. In this instance the power not only is not conferred, it is expressly reserved by the States in the Constitution.

The principle which must be applied was well stated by Chief Justice Marshall in the case of *Hodgson & Thompson* v. *Bowerbank* (1809) (5 Cranch 303) when in discussing legislation dealing with judicial power he said:

> Turn to the article of the Constitution of the United States, for the statute cannot extend jurisdiction beyond the limits of the Constitution.

The framers of the Constitution familiar with the constitutions of the several States and the tax requirements they included, wrote into article I, section 2, a provision that the qualifications for electors for Members of Congress should be the same as the qualifications for the electors for the most numerous branch of the State legislatures. Thus reserving to themselves that power, the States likewise bound the Congress, as much so as if the Constitution had expressly said: "The Congress shall pass no bill concerning the qualifications of persons voting for Representatives in Congress."

That there should be no doubt, in future years, of that fact, there was written into the 10th amendment this reminder:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively or to the people.

CARTER AGAINST CARTER COAL CO.

The limitation on the powers of Congress was defined with clarity by the Supreme Court in the case of *Carter* v. *Carter Coal Co.* (298 U.S. 238) in which the Court said:

> The general rule with regard to the respective powers of the National and the State Government under the Constitution is not in doubt. The States were before the Constitution; and, consequently, their legislative powers antedated the Constitution. Those who framed and those who adopted that instrument meant to carve from the general mass of legislative powers, then possessed by the States, only such portions as it was thought wise to confer upon the Federal Government; and in order that there should be no uncertainty in respect to what was taken and what was left the national powers of legislation were not aggregated but enumerated—with the result that what was not embraced by the enumeration remained vested in the States without change or impairment. Thus, "when it was found necessary to establish a National Government for national purposes," this Court said in *Munn* v. *Illinois* (84 U.S. 113, 124), "a part of the powers of the States and the people of the States was granted to the United States and the people of the United States. This grant operated as a further limitation upon the powers of the States, so that now the governments of the States possess all the powers of the Parliament of England, except such as have been delegated to the United States or reserved by the people." While the States are not sovereign in the true sense of that term, but only quasi-sovereign, yet in respect of all powers reserved to them they are supreme—"as independent of the General Government as that Government within its sphere is independent of the States." And, since every addition to the legislative power to some extent detracts from or invades the power of the States it is of vital moment that, in order to preserve the fixed balance intended by the Constitution, the powers of the General Government be not so extended as to embrace any not within the express terms of the several grants or the implications necessary to be drawn therefrom.
>
> It is no longer open to question that the General Government, unlike the States, possess no inherent power in respect of the internal affairs of the States and emphatically not with regard to legislation. The question in respect of the inherent power of that Government as to the external affairs of the Nation and in the field of international law is a wholly different matter which it is not necessary now to discuss.

While it may be said that the value of the case I have just cited is limited as a precedent by subsequent decisions questioning the validity of the conclusion then reached by the Court, the reasoning on the particular point we have under discussion remains valid.

This was recognized by the Court when it said as late as 1945 in the case of *Screws* v. *U.S.* (325 U.S. 91):

> The 14th amendment did not alter the basic relations between the States and the National Government. *United States* v. *Harris* (106 U.S. 629; in re Kemmler, 136 U.S. 436, 448): Our National Government is one of delegated powers alone.

So it seems clear that the power to fix qualifications of voters, expressly reserved to the States by the Constitution, cannot be said to be abrogated by some implied power of Congress.

Now let us take a look at the Javits bill in the light of the constitutional history which I have so far developed.

The second section of S. 478 states that—

> SEC. 2. It shall be unlawful for any State, municipality, or other governmental authority or any subdivision thereof, or for any person, whether or not acting on behalf of any State, municipality, other governmental authority or subdivision thereof, to levy, collect, or require the payment of any poll tax or other tax or to impose a property qualification as a prerequisite for registering to vote or voting in any primary or other election for President, Vice President, elector for President or Vice President, or Senator or Member of the House of Representatives, or otherwise to interefere with or prevent any person from registering to vote or voting in any such election by reason of such person's failure or refusal to pay or assume the obligation of paying any poll tax or other such tax or meeting any property qualification. Any such levy, collection or requirement, and any such tax or property qualification, shall be invalid and void insofar as it purports to disqualify any person otherwise qualified from voting at such primary or other election.

I should first like to call attention to the fact that the bill is made to apply to the choice of electors for President and Vice President, in the very face of the fact that the Constitution reserves to the States the exclusive power of determining the manner in which its electors shall be chosen and confers no power whatsoever on Congress to legislate on this subject.

Section 1 of article II of the Constitution provides:

> Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

Under this provision, States do not have to hold elections to choose Presidential electors, and in the early days of the Nation some States had their legislatures choose electors, some chose them by districts and some by other methods, although at present the accepted method is to have the choice made by ballot of the whole electorate.

M'PHERSON AGAINST BLACKER

Any doubt as to the latitude given the States in making their choice is removed by examination of the language used by the Supreme Court in the case of *McPherson* v. *Blacker* (146 U.S. 1, 27, 35) where Mr. Chief Justice Fuller said:

The Constitution does not provide that the appointment of electors shall be by popular vote, nor that the electors shall be voted for upon a general ticket, nor that the majority of those who exercise the elective franchise can alone choose the electors. It recognizes that the people act through their representatives in the legislature, and leaves it to the legislature exclusively, to define the method of effecting the object.

Mr. Chief Justice Fuller also said in his opinion in this case:

In short, the appointment and mode of appointment of electors belong exclusively to the States under the Constitution of the United States. They are, as remarked by Mr. Justice Gray *In re Green* (134 U.S. 377, 379 (33:951, 952)) "no more officers or agents of the United States than are the members of the State legislatures when acting as electors of Federal Senators, or the people of the States when acting as the electors of Representatives in Congress." Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, which is required to be the same day throughout the United States, but otherwise the power and jurisdiction of the State is exclusive, with the exception of the provisions as to the number of electors and the ineligibility of certain persons, so framed that congressional and Federal influence might be excluded.

In this case the Court also quoted, with approval, from a report of the Senate Privileges and Elections Committee made in 1847, in which it was stated that:

It is no doubt competent for the legislature to authorize the Governor, or the supreme court of the State, or any other agent of its will to appoint these electors.

The Court said further:

Whenever Presidential electors are appointed by popular election, then the right to vote cannot be denied or abridged without invoking the penalty (of having State representation reduced as provided in the 14th amendment), and so of the right to vote for Representatives in Congress, the executive and judicial officers of the State, or the members of the legislature thereof. The right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State. There is no color for the contention that under the amendments every male citizen of the United States has from the time of his majority a right to vote for Presidential electors.

It should be apparent, then, that even if justification could be found in the Constitution for the proposed legislation as applied to elections for Members of Congress, the same authorization could not be made to apply to the choice of electors of President and Vice President. Clearly, even the limited power given by section 4 of article I to deal with the times, places, and manner of elections, cannot refer to the electors, who do not have to be chosen at an election at all, if the State should prefer some other manner of selection.

So, the ground which is attempted to be covered by this bill indicates how far the enthusiasm of its sponsors has led them astray from constitutional principles.

That the departure of the authors of the bill from the intent of the framers of the Constitution is not entirely unconscious is also indicated by the clause in section 1 of the bill stating that requirement of a poll tax payment as a prerequisite to vote—

is not and shall not be deemed a qualification of voters or electors * * * within the meaning of the Constitution, but is and shall be deemed an interference with the manner of holding primaries and elections for said national officers, an abridgment of the rights and privileges of citizens of the United States, a tax on such rights and privileges, an obstruction of the operations of the Federal Government, and an impairment of the republican form of government.

We have here what amounts to a confession by the authors of the bill that they cannot invade the right to fix qualifications of voters, which is so plainly given to the States by article I, section 2. So they try by a legislative declaration to remove the poll-tax requirement from the definition of the word "qualification" and then, by another declaration to brand it as "interference" with the manner of holding elections and other provisions of the Constitution thereby bringing it into a realm where Federal authority could be asserted.

There are two questions to be considered here. First, is the poll-tax requirement such a qualification as was contemplated by the framers of the Constitution and which is permissible under article I, section 2? And second, can the Congress usurp a power which always has been conceded to belong to the courts by attempting to define and interpret the meaning of the wording of our Constitution merely to justify an extension of its own powers?

On the first point, we know that Webster defines "qualification" as "a condition precedent that must be complied with for the attainment of a status, the perfection of a right, and so forth, as the qualification of citizenship."

And "qualified voter" is defined as "one who possesses certain specific qualifications for voting, especially as to citizenship, age, and residence, and sometimes also as to literacy and ownership of property."

I can find no merit in the argument of those who attempt to say that when the authors of our Constitution wrote in the word "qualification" they had in mind only moral or intellectual qualities which would make the citizen competent to vote intelligently.

As I previously pointed out in this discussion, the possession of property or the prepayment of taxes was a prerequisite to voting in most of the States at the time the Constitution was adopted. And, in the Federalist—No. 60—Alexander Hamilton applied the word "qualification" in this connection when he spoke of "prescribing qualifications of property, either for those who may elect or be elected." Hamilton immediately added that—

This forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution; and are unalterable by the legislature.

The same understanding of the term "qualifications" is evident among those who participated in the constitutional convention debates. Thus (in Elliott's Debates, vol. 5, p. 385) we find that in discussion of article I, section 2, Mr. Gouverneur Morris moved to amend by striking out "beginning with the words 'qualifications of electors'," so as to "restrain the right of suffrage to freeholders." Continuing this discussion of a property ownership requirement for voters, Mr. Wilson thought it would be difficult to form any uniform rule of qualifications for all States. Mr. Mason observed that some of the States had "extended the right of suffrage beyond the freeholders," and that a power to alter the qualifications would be a dangerous power in the hands of the Legislature—Congress. James Madison was undecided whether the constitutional qualification ought to be freehold, but said the right of suffrage ought to be left to be regulated by Congress.

This interpretation of qualifications of voters has continued to be accepted to the present time.

I submit, therefore, that the Congress would be violating an elementary principle of law if it undertook, as this bill proposes to do, to enlarge its own powers by changing the meaning which the word "qualification" has achieved both by popular acceptance and judicial interpretation.

This is exactly the kind of action I believe Thomas Jefferson had in mind when he said:

In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

The bill's assertion that what the framers of the Constitution plainly recognized as a qualification for voting is not a qualification at all, is a legally unjustified twisting of language.

I think we are justified in observing, too, that a poll tax prerequisite for voting is more of a fancied than an actual injustice.

The registration-before-voting requirement in New York State disqualifies more potential voters in New York City alone than the poll tax does in the entire State of Virginia. If the larger the vote, the better the government, why place any restriction on voting? It is neither a small poll tax payment nor registration that results in the failure of many people to vote. It is indifference to public affairs. Vast campaign funds are spent in every election in an effort to overcome that indifference.

Historically we have seen that the payment of a poll tax as a prerequisite to voting came into use in this country as a liberal alternative to the requirement that a citizen should be a landholder or property owner. It was regarded with some distrust by some of our Founding Fathers who feared that the colonist who owned nothing and so had little to lose might not hesitate to vote for irresponsible officials who would bankrupt the Government. It was defended, however, by those who recognized that in an undeveloped country there were those who had not had an opportunity to acquire many worldly goods but who deserved a voice in the Government. These liberals of their day were willing to trust the right of franchise to anyone who had made even a nominal contribution to the cost of maintaining his Government.

It still may be worth while for us to remember that John Stuart Mill, the English philosopher and economist, in his Considerations on Representative Government, not only recommended a direct capitation tax as a qualification for voting, but also suggested that a voter should be able to read and write and do simple problems in arithmetic.

Also the distinguished American jurist, Judge Thomas M. Cooley, in his work on constitutional law, published in 1880, said:

> Many of the States admit no one to the privilege of suffrage unless he is a taxpayer. * * * To require the payment of a capitation (poll) tax is no denial of suffrage; it is demanding only the preliminary performance of public duty, and may be classed, as may also presence at the polls, with registration, or the observance of any other preliminary to insure fairness and protect against fraud (p. 263).

Incidentally, Judge Cooley, writing before the Yarbrough case was decided, forecast the position taken by the Supreme Court by saying in his book:

> The Constitution of the United States confers the right to vote upon no one. That right comes to the citizens of the United States, when they possess it at all, under State laws, and as a grant of State sovereignty.

Mr. President, it seems to me less logical to attack the poll tax, which denies the vote to those who are financially able to make a small annual contribution to public education, but refuse to do so, than it would be to attack the restrictions which States have placed on paupers, who might be glad to qualify if they had the money.

Perhaps it will be said that the man who has no money and is dependent on the State for his support should not be entrusted with the responsibility of choosing officials; but if so, is there not even better reason for denying the ballot to those who have the money but are too indifferent to meet the requirements set up by their State laws?

Mr. President, the Javits bill is not only unconstitutional and illogical, but—like the proposed Holland amendment—it is highly undesirable.

These proposals are dangerous in principle, because they serve as another step in the direction of submerging the sovereignty of the States in an overpowering Central Government. They open the gates for an unlimited invasion of the powers which the Constitution carefully reserved to the States.

Thus, if we by statute or by amendment provide that a State cannot require prepayment of a poll tax by voters, there is no logical reason why we may not choose at a later date to lower the voting age to 18 or 16 or 12—or perhaps eliminate the length of residence requirements and restrictions on absentee voting. The question is simple, Do we want the Federal Government to determine the qualifications of voting? To permit it to determine any qualification is to lay the foundation for permitting it to determine all qualifications.

We must keep in mind that the power to enlarge the electorate includes the power to restrict it. Many peoples have despotism forced upon them. Must we embrace it of our own free will?

Mr. President, since our Constitution was adopted, warnings have been sounded of the dangers of upsetting the delicate balance between the States and the Federal Government, and the legislative, the judicial, and the executive branches.

Because the warnings of Andrew Jackson and others were not sufficiently heeded, we found ourselves plunged into a fratricidal war. Our Nation and our constitutional Government survived that conflict but only at a terrible price. And, incidentally, the States against which the pending legislation is directed still are paying installments on that price in the form of retarded economic development.

But, we have survived to the present and we know that history records no instance of an overnight destruction from within of a form of government which has existed for more than a century and a half. The process always has been slow and it has always been insidious. The leaders advocating the change have always concealed their direct purposes and the masses have accepted the change in the mistaken belief that they were going to get in the future something better than they had in the past.

Let us not be so misled now. Let us not do something which might pull a cornerstone from the base of our constitutional liberty.

Let us heed the words of Daniel Webster, speaking on the 100th anniversary of the birth of George Washington when he said:

> Other misfortunes may be borne, or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it; if it exhaust our Treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which united national sovereignty with State rights, individual security and public prosperity? No, if these columns fall, they will be raised not again. Like the Coliseum and the Parthenon, they will be destined to a mournful, a melancholy immortality. Bitterer tears, however, will flow over them, than were ever shed over the monuments of Roman or Grecian art, for they will be the remnants of a more glorious edifice than Greece or Rome ever saw, the edifice of constitutional American liberty.

Mr. HILL. Mr. President, will the Senator yield to me?

Mr. ROBERTSON. I yield.

Mr. HILL. Will the Senator from Virginia permit me to warmly congratulate him on his very scholarly, erudite, and magnificent address today?

Mr. ROBERTSON. The distinguished Senator from Alabama is far too gracious in his praise, but I appreciate his comment very much.

Mr. President, I yield the floor.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

GREEK INDEPENDENCE DAY, MARCH 25

Mr. SALTONSTALL. Mr. President, tomorrow, March 25, on the 141st anniversary of the beginning of the valiant struggle of Greece to free itself from Ottoman rule, Americans will join with freedom-loving people all over the world in paying tribute to the independent spirit and the courage of the Greek people.

It is entirely appropriate that on this occasion free people everywhere should acknowledge their debt to a nation which has contributed so much to the development of democratic ideals and institutions. The experiments in democratic government carried on at Athens over 2,000 years ago established a firm foundation for the development of democracy as we now know it. The methods and practices of the city-state government necessarily have been modified to fit the demands and situations of modern society, but the primary emphasis on the worth and dignity of the individual and on the rule of law, have remained unchanged. Greece may indeed be described as the birthplace of human freedom.

The contributions of the Greeks to world progress have special meaning for the United States. The men who fashioned our Declaration of Independence and our Constitution were much influenced by the writings of the Greek philosophers, and the foundations of our Government reflect this influence. Greek contributions to our society have not been confined of course to our political institutions. Outstanding examples of Hellenic architecture, literature, and culture are everywhere around us. But it is for their contributions to democratic political thought that I especially commend them today. It is gratifying to note that when, after centuries of subjugation, Greece sought, in 1821, to reestablish its freedom, the influential voice of Daniel Webster, one of the most illustrious of the Massachusetts members of this body, was raised in behalf of these people.

The struggle for freedom in Greece was not won easily. Nor has it been easy

for the Greeks to maintain the freedom thus achieved. Because geographically Greece is a gateway between Europe and Asia it has been the locale of many serious armed conflicts, all of which have done great injury to the economic and political structure of the land but none of which has dampened the spirit of the Greek people. During World War II Greece was occupied by Axis powers, but not until the Greeks had resisted the Italian forces of Mussolini, forcing the latter to seek assistance from German troops. British forces liberated Greece in 1944, but the troubles of this nation were not yet over. Soon the country was plunged into civil war once again, on that occasion fighting to maintain its freedom from Communist enslavement. The Greeks were successful in the endeavor and now stand practically on Russia's doorstep as a constant reminder and symbol of a people that successfully resisted the clutches of the Kremlin. The Greek victory over the Communists was truly a victory for free people all over the world. Greece is now a stronghold for democracy in the eastern Mediterranean area and is a vital link in the North Atlantic Treaty Organization.

Those of us from Massachusetts are properly proud of the large Greek community in our State, which has been a powerful and constructive force for good and has provided leadership in many aspects of our community life. Some of my closest associates in Massachusetts have been Americans of Greek background. I value their friendship and their counsel highly.

WASHINGTON'S FAREWELL ADDRESS REVISITED

Mr. SALTONSTALL. Mr. President, I ask unanimous consent to have printed in the RECORD a magnificent talk by Admiral Burke before the New York State Society of the Cincinnati on February 22, 1962. It expresses so clearly the problem that faces our Nation today and our responsibility to approach that problem realistically and in the best interest of our country and world peace.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WASHINGTON'S FAREWELL ADDRESS REVISITED

(Address by Adm. Arleigh Burke, U.S. Navy, retired)

The anniversary of a society founded by George Washington, such as the one I am privileged to share with you today, is appropriate not only to our sense of history, but also to our responsibilities for the future.

Washington stood at the helm of this Nation when it was in transition from colony to Nation. Today our transition is from the tranquillity of a nation secure in its internal power, and busily occupied with its internal affairs, to a nation challenged to do no less than lead the world through a wilderness of terror and oppression—or by default—be held accountable for the death of Western civilization.

Despite the almost incredible difference in the magnitude of the challenge, that of building a single new nation or securing the fate of an entire world, the challenge that faced Washington and the one that faces us is similar in one overwhelming sense. The success of the response to the challenge will be decisive and irrevocable within a short span of time. The generation that followed Washington knew that the Nation's roots had firmly taken hold. The generation that follows us will know, by the very condition of their lives, whether we failed or succeeded.

In these circumstances it might seem that of all Washington's statements, his Farewell Address would be the least appropriate for our consideration. It is generally held to be the great document of isolationism. It describes Europe's interests as of only "remote relation" to ours. It says that it would be unwise to "implicate ourselves by artificial ties, in the ordinary vicissitudes of Europe's policies, or the ordinary combinations and collisions of her friendships or enmities."

Today there are those who steadfastly hold that this advice should be followed again; that by avoiding foreign entanglements we would also avoid all threat and danger. There are others who say, to the contrary, that what Washington said then was soon proven wrong and thus should be remembered only as a museum piece of political oratory.

Both are wrong—terribly wrong.

Washington's address was, in fact, the enunication of a policy of isolationism. He did seriously propose it as just that.

And fortunately the American people had sufficient wisdom to follow his direction. For out of the isolationism was born the mighty power of the United States. The wisdom of that policy has been tested and proven by the experience of over 150 years of history. If, in our own day, new circumstances require a reassessment of foreign policy, let us not orphan ourselves in the cold corridors of history with an ill-considered rejection of Washington's thought. Our goal now should be to formulate a policy as well suited to the present circumstances as his was for young America.

Consider the circumstances of 1796. A small, new state clinging precariously to the littoral shore of the Atlantic Ocean, faced two ways. To the east lay a Europe involved in the opening stages of the Napoleonic wars, with the earlier dynastic struggles still ringing in the air. To the west lay 2,000 miles of open land—fertile plains, mountains filled with treasure, occupied only by nomadic tribes whose culture never achieved the status of a civilization. Which way should such a new nation turn? Should it involve itself in the ancient rivalries of Europe and spend its energies in arms and wars whose outcome would be little affected by the paltry power our new Nation could muster? Or should it live its own life sheltered by the ocean from the alarms of Europe? Who can doubt the wisdom of a decision that had the insight to veto involvement in Europe then?

But wiser by far was the restriction of the decision to what was known and observable. Washington did not counsel the march westward, although he himself from his earliest years had been interested in the West. At that time Fort Pitt was the West. For Washington knew that no man knew the future with certitude and each generation must live its own life at its own peril. He did, however, understand man. And from the character of human nature the future could be suspected. He put it this way:

"The period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel."

Such was our wisdom when we were still young. Such was our wisdom when we looked upon the affairs of man with the bright insights and hard realism that now constitute our birthright.

The prudential, pragmatic character of Washington's policy is striking. Among other things, as it was spelled out, it counseled the rejection of the ideology of revolution then current in France. The Alien and Sedition Acts are by current thoughtless fashion of today totally condemned. But whatever may be said critically of them, this is indisputable; they represented a deep will not to be involved in ideological excesses, to solve our own problems in our own way and by our own insights, not by those of some absolutist way of thought born in some garret or salon. Secondly, its rejection of involvement was carefully restricted to political involvement. It was coupled with the idea of the desirability of trade, and that inventiveness and energy would find ways to grow and profit. In later years when capital beyond our resources was needed to lay track and build an industrial complex, we opened our land to foreign capital with confidence and gratitude, certainly without jingoistic fear of economic imperialism.

No, this carefully defined isolationism was not rooted in morbid fear. It simply recognized that a newly born nation had no business contending with the giants of the world. The new nations of our day would do well to ponder this address.

With our foreign policy thus established, the people of America began their trek across the continent. As generations passed, they filled the land. Replenished constantly by the disaffected of the old world, vigorous and ebullient in freedom and opportunity, the American people became a major world power. We achieved that condition foreseen by Washington where only the foolhardy would attack us and our destiny was in our own hands.

Our very success created a new problem, a new place in the world. Since 1918 we have been debating the question of this new place in the world, and debating the foreign policy appropriate for it.

The debate has not been very inventive, not very illuminating. The conflict of opinion has been tedious, cliche-ridden and largely irrelevant to the true issues confronting the country. The weary protagonists first appear after World War I. There was first the Wilsonian position with its admirable idealism but delusive imprudence about international self-determination in a world where reason would displace power in a League of Nations. Against this, a new isolationism appeared whose basic position consisted in an unexamined repetition of the no foreign entanglements of Washington's day. Both positions were incorrect. The first assumed a utopian world of men of perfection that has never existed; the second assumed an America that had not grown for 150 years. The country actually needed a foreign policy that saw men as they are and the Nation as it had become.

When, in 1940, the idealistic position ultimately won, it was not because of any intrinsic merit in itself but because of the obvious fallacy of isolation. With the rise of Hitler and the appearance of ideological dreams of empire in both Nazi and Communist camps, it became obvious beyond discussion that American power was necessarily involved in the mainstream of world affairs. In this unearned, but highly exploited victory for the valid principle of intervention, more was lost than isolation. With it we somehow lost the tempered, realistic estimate of the possible in human affairs. Since then our policy has seemingly floundered from one unrealistic position to another. The list is dolorous: the bloodily total terms of surrender in Germany and Japan, Soviet intervention in the Far East, frantic postwar

disarmament, equally frantic rearmament, withdrawal, containment, massive retaliation, massive foreign aid, diplomacy through a U.N. that can only be a forum. In this jumble of jerry-rigged policy only one strand of direction can be found: We are again at war.

It is not my purpose to inquire how the hardheaded realism of Washington was replaced by the dreamy fumblings of international idealism. Rather, we should use the very errors of the visionary policy as a way back to our traditional wisdom in foreign affairs. Ineptitude becomes intolerable when it resists the experience of its own failures.

I propose, therefore, that we examine the principal characteristics of contemporary idealism to compare them with the basic premises on which Washington's policy rested.

First, we have in our current policy a profound willingness to recognize the basic character of our problem. We are currently spending about $50 billion a year on armaments. We spend additional billions in foreign aid. We levy upon our youth a tax of 2 important years of their developing lives. And all this we do because of one single fact: the fact of communism. If this vast ideological monstrosity did not exist, then we would not need these vast expenditures and levies. Yet we seem, year after year, decade after decade, reluctant to admit this. Our policy too often has been to talk softly about communism. Such a policy refuses to recognize the ideological intensity with which the Soviet Union hates America, the free world and all we stand for. It continues to negotiate with the Soviet Union as though the issues between us were ones that could be settled by the traditional diplomacy of limited interests. This is the first and the greatest of our errors.

Contrast this vacillation and self-imposed blindness with Washington's clarity on the same issue of ideology. The question today is not, as it was in Washington's time, whether a revolutionary ideology should be accepted or not. The question is one of identification: whether the Communist ideology is revolutionary and how the Soviet wields it. With much less evidence available, Washington and the American people were quite able to identify the ideology in France of their day. We need a like ability to identify in its true dimensions the ideology in the Soviet Union now. This is not some phantasm that will disappear if we pay no attention to it. This is the basic fact in our current situation. Until it is frankly and openly evaluated our policy necessarily will continue to oscillate between the brandishing of hydrogen bombs and the bowing and scraping of summit conferences.

The second fundamental unreality in our policy is the desire to have peace without the use of power. In a schizoid manner we have balanced a Department of Defense with a Committee on Disarmament, ballistic missiles with the position that war is unthinkable. Basically, we oscillate here between an unpalatable reality and an act of faith. Consequently we have become dangerous to the world. No one really knows what we will do, because we ourselves do not know. The simple fact is that America and the West in general have a guilt complex about power. It frustrates our every use of it. In Cuba, in Suez, in Korea, currently in Laos, we half use it in a miserable compromise between dream and reality.

Contrast this with the sturdy acceptance of the fact of power by Washington. One would have expected that a weak, ineffectual collection of former colonies would have made a great to-do about moral principles and the principle of persuasion. One might have expected Washington to speak like Nehru and the other leaders of modern powerless states. But there, in 1796, in the context of a concern with morals and virtue, we had a quiet acceptance of the fact of experience. Power relations are basic in international affairs. Therefore the young Nation had to withdraw from the stage and sit quietly in the audience. It had no power. There is no complaint here, no querulous objection to the realities. There is realistic acceptance. There is the unshakable confidence that someday we would have power, that someday we might "choose peace or war, as our interests, guided by justice, shall counsel." This grasp of reality promised predictability. Peace or war were envisaged as a matter of choice, and the clear standard is "our interests, guided by justice."

Will there ever be peace in the world unless the powerful use their power for peace? And this always involves the position that there is an alternative to peace, and, at the margin, that that alternative will be invoked against the lawless nation. America, in its youth, was wise. What has happened to that wisdom at the peak of its maturity? Let us pray that our lack of wisdom is but a brief faltering in our transition from inner preoccupation to world leader. Certainly the conditions of a new wisdom is to return to the insights we once had.

The first signs of a refurbished wisdom will be found in a frank, conscious, and determined use of our power—in all its forms—to determine the course of international events in the modern world.

Lest I be charged with mongering for war, I would like to make it clear that I mean all forms of national power, not only military power. I mean diplomatic power, spiritual power, economic power, psychological power, and all other forms of power which make a nation great, in addition to military power. Military power is important, but in these days of cold war, it is the use of other forms of national power with which we are now primarily concerned. In some instances military power may have to be used and in those instances it must be used. But in the main, it is the other forms of national power which must be used to create stability in a disordered world. So, I would like to repeat, that there is a need for frank, conscious, and determined use of our power, in all of its forms, to influence the course of world events—and that is reality in a realistic world.

But there is another unreality in our policy. It is the desire to have policy without national interest. Deeply involved in our approach to foreign affairs is the suspicion that justice and national interest are incompatible principles of action. This suspicion is articulated in the idea that the Government of the United States has certain altruistic obligations to mankind, obligations that require a continuous sacrifice of the economic and political interests of the people of the United States. Economic aid without strings is the embodiment of this ideal policy. Thus we engage in a policy of good example and sometimes meticulously work against our own interests before an assemblage of nations that can find us at most amusing and at worst irresponsible. A paradoxical consequence of this avoidance of national interests is that it leads to a new isolation. But it is a subtle isolationism, hidden behind a mask of the U.N. Our avoidance of national interests leads to a deeper and deeper involvement in the United Nations. And it is the U.N. and not the United States that engages in foreign affairs.

Let us be clear about it: in proportion to our refusal to accept the responsibility of our power in all its various forms, we in fact withdraw from the real world. We operate in a shadowland where nothing is called by its right name and ghostly memories of a former imperialism obscure the terrible reality of Communist expansion.

What a contrast to Washington. He clearly thought that the objective of any foreign policy is the implementation of national interest. Justice operates to insure that those interests will be accurately defined and temperately sought. Justice is the mode of foreign policy, not an abstraction that definies its substantial goal. It was still clear in those earlier days that the first and the basic obligation of government is to the governed. From this it follows that governments have only indirect obligations, defined by natural equity, toward other peoples.

There is a tragic element in the loss of this clear insight. The real interests of the United States coincide with the real interests of the human race. These can be summarized in the single word, "peace." Our rise to power was marked by no international adventures. We never coveted our neighbors' territory or wealth. Now that we have the power, our history assures us that we could use it effectively for peace. The powerful must act powerful, for they cannot act at all except they act effectively. We are confused by fears—the fear of gaining some advantage, the fear of seeming imperialistic, the fear of being unpopular. The massive power providentially given to us is frustrated by an abstract idealism that is apart from reality and does not recognize the basic conditions for the effective use of power.

The final unreality in our policy is the refusal to permit the economic order to function normally in international affairs. The consequence is a disastrous confusion between economic and political orders. Our policy on economic aid has attempted to do, by political decisions, the things that the inventiveness of the industrial man achieves almost unconsciously. Instead of permitting trade to find its own channels, capital to move freely wherever advantage may call it, we have reduced the basic flow of wealth to the paltry trickle of a few billions, extracted by taxes from the American economy and too often inserted into backward economies on the basis of political expediency rather than economic rationality. In doing this we foster the illusions of the underdeveloped countries themselves, who think they will solve their economic and social problems by fiat rather than by works.

Economic aid can be good, as the concept of the Marshall Plan was good, but it can also be bad. More money to a spendthrift son will not solve his problem. Character, hard work and a realization of his responsibilities will solve a prodigal son's problem. And character, hard work and a realization of responsibilities in the building of economic strength within a nation's competence, and within its willingness to meet its obligations will solve many of the new nations' problems. We can help them, but fundamentally economic growth is possible only when people are willing to work and meet the obligations and responsibilities of that growth.

Against the chaos of thought in our country, and in countries receiving aid, Washington has left us a neglected heritage of wisdom in lines whose very rhythms convey the quiet sense of contact with reality:

"It is folly in one nation to look for disinterested favors from another. It must pay with a portion of its independence for whatever it may accept under that character. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard."

And that, too, is reality—reality in the past; reality in the present.

The enduring elements of the realities that Washington sensed or saw in all things are the very elements that challenge us today: the motivations of States, the real ends of foreign policy, the relations between power and peace, the functions of ideology, the character of people.

As we misjudge or confuse or obscure these elements we diminish profoundly the possibilities of peace and even the possibilities of survival, at least of survival in freedom.

To our Nation today falls no social worker's chore of improving the world's hygiene. Our challenge is not that of the carnival barker called upon to extoll the excellence of his show so that every passerby will at least want to peek inside. Our challenge is not that of the marathon runner who, if only *his breath holds out*, will find his competitor gasping and falling by the wayside.

Our chore and challenge is simply the dedicated, wise use of every element of our national power to secure the peace of the world by reducing to impotence the opposing power that threatens it.

This is not work for a young nation. It is work for a mature nation in a real world.

It is the continuation in our time of the realistic course that Washington set for us. It is time now to use the power which his policies permitted to grow.

We, nor the world, may have no second chance in this challenge.

We will write, through indecision and unreality, nothing but an address to the farewell of freedom in the world.

Or we will write, with the pen of our morality and the sword of our responsibility, a great testament to man's triumph over tyranny and terror—a great testament to man's dignity and his determination to live not as animals cowering in pens of authoritarianism, but as men cast in the image of God and knowing no fear but of Him.

Our lives would be meanly led and, finally, ignobly lost if we accept any lesser dedication.

RECESS UNTIL 9 O'CLOCK A.M., MONDAY, MARCH 26, 1962

Mr. MUSKIE. Mr President, in conformance with the previous agreement entered into, I move that the Senate now stand in recess until 9 o'clock on Monday next.

The motion was agreed to; and (at 1 o'clock and 45 minutes p.m.) the Senate took a recess under the order previously entered, until Monday, March 26, 1962, at 9 o'clock a.m.

HOUSE OF REPRESENTATIVES

MONDAY, MARCH 26, 1962

The House met at 12 o'clock noon.

The Reverend Archie J. Cochrane, Old St. Andrews Church, Bloomfield, Conn., offered the following prayer:

Almighty, gracious, and Holy God, who, from the hearts and souls of men art able to draw forth true greatness; so enlighten in us our understanding of Thee that we shall at all times sense the presence in our lives of this seed of greatness which Thou hast so graciously sown in us at our creation.

Help us to nourish and to bring to maturity those things we know to be truly great in Thy sight: Love of Thee, love of our fellow man, and love of the truth; so that with these elements of spiritual health we may more vigorously pursue the responsibilities that lie before us.

We make our prayer in the sincere hope that, in Thy good time, all nations of men will accept these Thy gifts, and take the place Thou hast prepared for them in the family of God—that place where peace in life, and eternal happiness will reign.

We ask these blessings through Thy Saviour Son, Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, March 22, 1962, was read and approved.

WATERSHED AND FLOOD PREVENTION PLANS

The SPEAKER laid before the House the following communication, which was read and referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, U.S.,
COMMITTEE ON AGRICULTURE,
Washington, D.C., March 22, 1962.

Hon. JOHN W. MCCORMACK,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture has today considered the work plans transmitted to you by Executive Communication 1331 and referred to this committee and unanimously approved each of such plans. The work plans involved are:

North Carolina, Gum Neck watershed; Tennessee, Pine Creek watershed; Texas, northeast tributaries of Leon River; Oklahoma, Wagon Creek watershed.

Sincerely yours,

HAROLD D. COOLEY,
Chairman.

RESOLUTION APPROVING THE WORK PLAN FOR GUM NECK WATERSHED, NORTH CAROLINA

Be it resolved by the Committee on Agriculture of the House of Representatives, That the plan for works of improvement for the Gum Neck watershed, North Carolina, submitted to the Speaker of the House of Representatives by Executive Communication 1331 and referred to the Committee on Agriculture pursuant to section 2 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1002), is hereby approved.

Approved March 22, 1962.

RESOLUTION APPROVING THE WORK PLAN FOR NORTHEAST TRIBUTARIES OF LEON RIVER WATERSHED, TEXAS

Be it resolved by the Committee on Agriculture of the House of Representatives, That the plan for works of improvement for the northeast tributaries of Leon River watershed, Texas, submitted to the Speaker of the House of Representatives by Executive Communication 1331 and referred to the Committee on Agriculture pursuant to section 2 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1002), is hereby approved.

Approved March 22, 1962.

RESOLUTION APPROVING THE WORK PLAN FOR PINE CREEK WATERSHED, TENNESSEE

Be it resolved by the Committee on Agriculture of the House of Representatives, That the plan for works of improvement for the Pine Creek watershed, Tennessee, submitted to the Speaker of the House of Representatives by Executive Communication 1331 and referred to the Committee on Agriculture pursuant to section 2 of the Watershed Protection and Flood Prevention Act, as amended (U.S.C. 1002), is hereby approved.

Approved March 22, 1962.

SELECT SUBCOMMITTEE ON LABOR

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the Select Subcommittee on Labor may sit today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

COMMITTEE ON PUBLIC WORKS

Mr. BOGGS. Mr. Speaker, I ask unanimous consent, notwithstanding the sessions of the House, that the Committee on Public Works be permitted to sit during general debate during the week of March 26.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FOREIGN TRAVEL BY MEMBERS OF CONGRESS

Mr. GROSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Mr. Speaker, in the CONGRESSIONAL RECORD for Wednesday, March 21, 1962, there are listed several reports by chairmen of committees of expense accounts of junketing Congressmen. On page 4753 of the CONGRESSIONAL RECORD of that date the chairman of the Committee on House Administration, Mr. BURLESON, lists the committees that have filed reports, and then he concludes with this astounding final paragraph:

> The following committees have expended funds for oversea travel but have failed to report expenditures as required by law: Agriculture, Education and Labor, Interstate and Foreign Commerce.

Mr. Speaker, I hope it will not be necessary that the Attorney General of the United States be called upon to enforce the law with respect to reports on the part of junketing Congressmen.

PRINTING OF ADDITIONAL COPIES OF HEARINGS, COMMITTEE ON EDUCATION AND LABOR

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 510.

The Clerk read as follows:

Resolved, That there be printed for the use of the Committee on Education and Labor one thousand additional copies of part 1 of the hearings held by that committee on the impact of imports and exports on employment.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF CIVIL DEFENSE HEARINGS

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administra-